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# Executive Orders

## EXECUTIVE ORDER JBE 19-16

### Bond Allocation 2019 Ceiling

WHEREAS, Section 146 of the Internal Revenue Code of 1986 (hereafter the “Act”), as amended (hereafter the “Code”), restricts the total principal amount of certain private activity bonds (hereafter the “Bonds”) that exclude interest from gross income for federal income tax purposes under Section 103 of the Code;

WHEREAS, Act No. 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter “Act No. 51 of 1986”) authorizes the Governor to allocate the volume limit applicable to the Bonds (hereafter the “ceiling”) among the State and its political subdivisions in such a manner as the Governor deems to be in the best interest of the State of Louisiana;

WHEREAS, pursuant to the Act and Act No. 51 of 1986, Executive Order No. JBE 2016-35 was issued to establish: (a) the manner in which the ceiling shall be determined, (b) the method to be used in allocating the ceiling, (c) the application procedure for obtaining an allocation of Bonds subject to such ceiling, and (d) a system of record keeping for such allocations; and

WHEREAS, the Town of Madisonville (hereafter the “Town”) has applied for an allocation of the 2019 ceiling, to be used in connection with the financing by Gulf South Pipeline Company, LP of the costs of constructing and acquiring extensions, improvements and replacements to and for the natural gas system of the Town (hereafter the “Project”) and paying the costs of issuance.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 2019 ceiling in the amount shown:

Amount of Allocation	Name of Issuer	Name of Project
\$1,000,000	Town of Madisonville	Gas Utility Revenue Bonds, Series 2019B

SECTION 2: The allocation granted herein shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the “Application for Allocation of a Portion of the State of Louisiana’s Private Activity Volume Cap” submitted in connection with the bond issue described in Section 1.

SECTION 3: The allocation granted herein shall be valid and in full force and effect through December 31, 2019.

SECTION 4: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State

of Louisiana in the City of Baton Rouge, on this 9th day of September, 2019.

John Bell Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Aroin  
Secretary of State  
1909#077

## EXECUTIVE ORDER JBE 19-17

### Flags at Half-Staff—Vincent Liberto Jr.

WHEREAS, Vincent “Vinny” Liberto Jr., a Captain with the Mandeville Police Department, will killed in the line of duty on Friday, September 20, 2019, at the age of 58;

WHEREAS, Captain Liberto was known across the entire country as a highly decorated and respected law enforcement officer;

WHEREAS, a devoted husband, father of seven children, and dedicated police officer, Captain Liberto began working with the Mandeville Police Department in 1994, after being honorably discharged as a sergeant in the Marine Corps where he served his country for over 10 years;

WHEREAS, after graduating from the F.B.I. National Academy and becoming a police officer, he climbed through the ranks and earned multiple prestigious awards during his years of service, including Officer of the Year, eventually working his way up to the position of Captain; and

WHEREAS, a man who lived his life with integrity and honor, Vincent Liberto’s bravery and service to the State of Louisiana will long be remembered.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: As an expression of respect for Vincent Liberto, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all state buildings on Friday, September 27, 2019.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Friday, September 27, 2019.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 24th day of September, 2019.

John Bell Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Aroin  
Secretary of State  
1909#078

## EXECUTIVE ORDER JBE 19-18

Flags at Half-Staff—Heulette “Clo” Fontenot, Jr.

WHEREAS, Heulette “Clo” Fontenot Jr., a former distinguished member of the Louisiana Legislature, died at the age of 58 on Sunday, September 29, 2019;

WHEREAS, he is survived by his wife of 32 years, Gail LeBourgeois Fontenot, two children, Madison and Trey, and grandson Cohen;

WHEREAS, he was elected and served two terms as alderman in the Town of Livingston before he was elected to the state House of Representatives where he served from 1996 until 2000;

WHEREAS, in 2000 he was elected as a senator where he served two terms before deciding to not run for re-election, after his retirement from public service in 2008, he worked full-time for ExxonMobil; and

WHEREAS, Huelette “Clo” Fontenot lived his life with integrity and honor and his public service as a lawmaker to the State of Louisiana will long be remembered.

NOW THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: As an expression of respect for Heulette “Clo” Fontenot, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol until sunset on Thursday, October 3, 2019.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Thursday, October 3, 2019.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 2nd day of October, 2019.

John Bell Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Aroin  
Secretary of State  
1909#079

## EXECUTIVE ORDER JBE 19-19

Louisiana Cybersecurity Commission  
Amending Executive Order Number 17-31

WHEREAS, the Louisiana Cybersecurity Commission (hereafter “Commission”) was established and created within the executive department, Office of the Governor through Executive Order Number JBE 17-31 on December 6, 2017;

WHEREAS, the Commission has been tasked with coordinating cybersecurity efforts among state governmental agencies, local governments, tribal governments, private companies, academic institutions, and other entities in both the public and private sectors;

WHEREAS, the Commission is required to provide a quarterly report containing an overview of goals, objectives,

priorities, estimated completion dates of activities, and recommendations to the Office of the Governor;

WHEREAS, the Commission is required provide an annual report to House and Senate Committees on Homeland Security in support of the bipartisan work being done on homeland security legislation to protect against cyber-attack; and

WHEREAS, it is necessary to amend Executive Order Number 17-31.

NOW, THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, in accordance with the authority vested in me by the Constitution and statutes of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Section 2 of Executive Order Number 17-31, issued on December 6, 2017, is hereby amended as follows:

The members of the Commission shall be appointed by and serve at the pleasure of the Governor and shall be comprised of up to seventeen (17) members. The Governor shall designate a Chairman and Co-Chairman from among the appointed members.

SECTION 2: Section 4 of Executive Order Number 17-31, issued on December 6, 2017, is hereby amended as follows:

In order to be successful in its mission, this Commission must be able to synchronize its efforts with other state, local, and federal agencies who are stakeholders in the cybersecurity for our state. Therefore, the following agencies are hereby invited and encouraged to have a representative participate as ex-officio members on this Commission:

A. Stephenson Disaster Management Institute (SDMI)

B. Louisiana Business Emergency Operations (LA BEOC)

C. Federal Bureau of Investigation (FBI) Cyber Task Force

D. The Cyber Innovation Center (CIC)

E. Department of Homeland Security (OHS)

F. Louisiana Department of Justice (LADOJ)

G. Stephenson Technology Corporation

H. Louisiana Technology Research Institute

I. Louisiana Economic Development (LED)

J. Louisiana Department of Health (LDH)

SECTION 3: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana in the City of Baton Rouge, on this 9th day of October, 2019.

John Bell Edwards  
Governor

ATTEST BY  
THE GOVERNOR  
R. Kyle Aroin  
Secretary of State  
1909#080



# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

#### Guava Root Knot Quarantine (LAC 7:XV.171)

In accordance with the emergency provisions of the Administrative Procedures Act, La. R.S. 49:953 (B), and the authority of the state entomologist under the provisions of R.S. 3:1652, and in order to avoid a lapse in coverage until the Permanent Rule is in effect, notice is hereby given that Department of Agriculture and Forestry is adopting these emergency regulations establishing a quarantine for the following pest: Guava Root Knot Nematode, *Meloidogyne enterolobii*. The state entomologist has determined that Guava Root Knot Nematode has been found in this state and may be prevented, controlled, or eradicated by quarantine. The effective date of this Rule is upon signature.

Guava Root Knot Nematode (GRKN) poses an imminent threat to the health and welfare of Louisiana's sweet potato, sugarcane, cotton, and soybean industries. In 2017, the total value of sweet potato production, including value added was \$92.6 million (Louisiana State University AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources). Sugarcane is also a host for GRKN. The gross farm value for sugarcane in Louisiana was \$589.3 million and the total value of the sugarcane crop to producers, processors, etc. at the first processing level was \$989.5 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources). The gross farm value for cotton in Louisiana was \$139.7 million and the total value of cotton production was \$210.1 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources). The gross farm value for soybeans in Louisiana was \$679.4 million and when value-added activities are included the total economic impact of the soybean industry is estimated at \$798.2 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources).

In addition to the aforementioned crops, GRKN is also a threat to the nursery and commercial vegetable industries. The gross value of commercial nursery production was \$107.1 million and the total value of nursery production was \$166.04 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources). Commercial vegetable production's gross value in 2017 was \$79.4 million and the total value of commercial vegetable production was \$186.7 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources).

Guava Root Knot Nematode has only been positively identified in a very small area of Louisiana but this pest could impact almost every agriculture related industry in Louisiana if it were to become established. GRKN has a wide host range of crops and also weeds that it infects. It also has a high rate of reproduction so the use of fumigants would only temporarily reduce the nematode's populations.

In addition, GRKN has been found to attack the native Southern root knot nematode resistant varieties of cotton, tomato, pepper, soybean and sweet potato.

The natural dispersal of GRKN is limited to very short distances. However without quarantine restrictions, GRKN could spread through human assisted means over long distances through GRK infested sweet potatoes, nursery stock, and commercial farm equipment.

In other states where GRKN is found, sweet potatoes are not harvested because the potatoes are of such poor quality and shape that they cannot be sold. Also in some instances, only certain crops can be grown in GRKN infested soil limiting the farmer's ability to diversify their crops and markets.

For these reasons the presence of GRKN in Louisiana presents a peril to the integrity and stability of Louisiana's agriculture industries. As a result of this imminent peril, the Department of Agriculture and Forestry hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by imposing the quarantines set out in these emergency regulations.

This Rule shall have the force and effect of law upon signature and will remain in effect 120 days, unless renewed by the commissioner of agriculture and forestry or until permanent rules are promulgated in accordance with law.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XV. Plant Protection and Quarantine

##### Chapter 1. Crop Pests and Diseases

##### Subchapter H. Guava Root Knot Nematode Quarantine

##### §171. Guava Root Knot Nematode Quarantine

A. The department issues the following quarantine because the state entomologist has determined that the Guava Root Knot Nematode, *Meloidogyne enterolobii*, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

B. Quarantine areas:

1. the states of Florida, North Carolina, and South Carolina;

2. a declaration of quarantine for guava root knot nematode covering any specific parish or area in Louisiana or any other state shall be published in the official journal of the state and in the *Louisiana Register*.

C. No regulated articles as defined in this Section shall be moved into any area of this state, except as provided in this Section.

D. The following articles are hosts of guava root knot nematode or may harbor guava root knot nematode and are deemed to be regulated articles for purposes of this Subsection:

1. the guava root knot nematode in all of its life stages; plant parts, specifically sweet potatoes, from Florida, North Carolina, and South Carolina that can harbor the guava root knot nematode; soil from the above-mentioned quarantined states that may harbor the guava root knot

nematode; commercial planting and/or harvesting equipment from the above-mentioned quarantined states.

2. Certified seed sweet potatoes may be moved from the quarantine area into Louisiana under a Special Permit issued by Louisiana Department of Agriculture & Forestry.

3. Nursery crops may not be moved from the quarantine area into Louisiana, whether direct from said area or by diversion or reconsignment from any other point, unless each shipment or lot is accompanied by a certificate issued by the authorized agricultural official of the state, certifying the material to be free from guava root knot nematode.

4. any other article, product, or means of conveyance not listed in this Section may be designated as a regulated article if an inspector determines that it presents a risk of spreading guava root knot nematode and notifies the person in possession of the article, product, or means of conveyance that it is subject to the restrictions of the regulations.

E. Commercial planting and/or harvesting equipment may be moved from quarantined areas into Louisiana only if moved under the following conditions:

1. the commercial equipment being moved is accompanied by a state of origin certificate issued by the state regulatory agency;

2. the commercial equipment must be thoroughly cleaned of any soil and plant debris and inspected by the state regulatory agency. The state regulatory agency must issue a state phytosanitary certificate attesting to the inspection and cleaning of the equipment.

F. Any person violating this quarantine shall be subject to imposition of the remedies and penalties set forth in R.S. 3:1653.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652, 3:1653.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 45:

Mike Strain DVM  
Commissioner

1909#028

## **DECLARATION OF EMERGENCY**

### **Department of Children and Family Services Division of Child Welfare**

#### **Extended Foster Care Services (LAC 67:V.3903)**

The Department of Children and Family Services (DCFS) has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953 (B) to amend LAC 67:V, Subpart 5, Foster Care, Chapter 39, Chafee Foster Care Independence Program and Extended Foster Care, Section 3903. This emergency rule shall be effective September 26, 2019, and shall remain in effect for a period of 120 days.

The Department considers emergency action necessary to facilitate the expenditure of IV-E funds for extended foster care services to the estimated 220 children who are currently eligible for these foster care services as specified in Act 400 of the 2019 Regular Session of the Louisiana Legislature. Without emergency action, the Department will not be able

to draw down IV-E funds for this population of young adults and will not be in compliance with Act 400 of the Regular Session of the Louisiana Legislature. Young adults who are eligible for Extended Foster Care services will not be able to receive such support during their transition to adulthood.

## **Title 67**

### **SOCIAL SERVICES**

#### **Part V. Child Welfare**

##### **Subpart 5. Foster Care**

#### **Chapter 39. Chafee Foster Care Independence**

##### **Program and Extended Foster Care**

#### **§3903. Extended Foster Care Services**

A. The DCFS will continue to provide foster care services to young adults age 18 to 21 who are completing secondary education or a program leading to an equivalent credential, enrolled in institution that provides postsecondary or vocational education, participating in a program or activity designed to promote employment or remove barriers to employment, employed at least eighty hours per month, or is incapable of doing any part of the activities in the aforementioned due to a medical condition in accordance with R.S. 46:288.1, et seq. They shall be eligible for foster care services until their twenty-first birthday as long as the youth is willing and continues to meet the above stated eligibility criteria. The youth initiates extended foster care services through signing a voluntary placement agreement. The young adult in foster care shall be eligible for all foster care services in accordance with their voluntary placement agreement and case plan; and, their foster parents, custodian or other placement provider continued services and benefits for the period of time the young adult is eligible and participating in the extended foster care program.

B. The DCFS will notify all foster children and their foster parents/custodians/placement provider in writing of the availability of extended foster care services; eligibility for the services; and, the benefits at the foster child's seventeenth birthday. The written notifications will continue every 90 days unless the foster child and foster parents/custodian/placement provider consent to participate in extended foster care, or the child becomes ineligible for participation in the program.

AUTHORITY NOTE: Promulgated in accordance with Act 400 of the 2019 Regular Session and R.S. 46:288.1, et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Child Welfare, LR 45:508 (April 2019), effective May 1, 2019, amended LR 45:

Marketa Garner Walters  
Secretary

1909#007

## **DECLARATION OF EMERGENCY**

### **Department of Children and Family Services Division of Child Welfare**

#### **State Central Registry (LAC 67:V.1103)**

The Department of Children and Family Services (DCFS) has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953 (B) to amend LAC 67:V, Subpart 3, Child Protective Services, Chapter 11, Section 1103. This



declaration is necessary to extend the original Emergency Rule since it is effective for a maximum of 120 days and will expire before the Final Rule takes effect. This Emergency Rule extension is effective on October 8, 2019 and shall remain in effect for a period of 120 days.

The department considers emergency action necessary to assure compliance with Act 243 of the 2019 Regular Session of the Louisiana Legislature. Information on individuals listed on the State Central Registry will be released in accordance with R.S. 40:2008.10 for therapeutic group homes licensed or applying for licensure by the Louisiana Department of Health (LDH). The information will be released in accordance with the rule and upon receipt of a written request containing the individual's consent, and payment of the SCR clearance fee.

#### **Title 67**

### **SOCIAL SERVICES**

#### **Part V. Child Welfare**

#### **Subpart 3. Child Protective Services**

### **Chapter 11. Administration and Authority**

#### **§1103. State Central Registry**

A. - G.11. ...

12. DCFS will disclose to a therapeutic group home licensed by the Louisiana Department of Health (LDH), or applicant for a license from LDH, information on perpetrators of child abuse and/or neglect who are listed on the state central registry upon receipt of the \$25 fee for the clearance; and, the individual's written and signed consent for the following:

- a. any person who owns, operates or manages a licensed therapeutic group home;
- b. any person who has applied for a license to operate a therapeutic group home;
- c. any person who is employed by, is contracted by, volunteers at, or interns with a therapeutic group home;
- d. any person who has applied to be employed or contracted by a therapeutic group home;
- e. any person who has applied to volunteer or intern with a therapeutic group home.

13. The information on the SCR for the above persons may be released to the LDH as required for LDH licensure of the therapeutic group home. This release shall not apply to contractors and other individuals providing a service at the therapeutic group home who are not employees, volunteers, interns, or contracted members of the staff of the therapeutic group home, including but not limited to plumbers, landscapers, or visiting resources.

**AUTHORITY NOTE:** Promulgated in accordance with the Children's Code, title VI, articles 615 and 616 and title XII, article 1173, R.S. 14:403(H), R.S. 46:51.2(A), R.S. 46:56, R.S. 46:1414.1, 42 USC 15601 et seq., 28 CFR 115.6., 42 USC 9858f and R.S. 40:2008.10.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Community Services, LR 18:79 (January 1992), amended LR 20:198 (February 1994), LR 21:583 (June 1995), LR 23:590 (May 1997), LR 26:790 (April 2000), LR 31:1609 (July 2005), LR 36:838 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Child Welfare Section, LR 42:862 (June 2016), amended by the Department of Children and Family Services, Division of

Child Welfare, LR 44:998 (June 2018), effective July 1, 2018, amended LR 45:217 (February 2019), LR 45:

Marketa Garner Walters  
Secretary

1909#055

## **DECLARATION OF EMERGENCY**

### **Department of Health Bureau of Health Services Financing**

Ground Ambulance Provider Fees and Enhanced Reimbursements for Qualifying Ground Ambulance Service Providers (LAC 48:I.4001 and 50.XXVII.331)

The Department of Health, Bureau of Health Services Financing amends LAC 48:I.4001 and 50.XXVII.331 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 46:2625 and 2626, and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 299 of the 2019 Regular Session of the Louisiana Legislature directs the Department of Health, Bureau of Health Services Financing to amend the provisions governing the health care service provider fees for ground ambulance service providers to include non-emergency ground ambulance services, and to include non-emergency ground ambulance services in enhanced reimbursement for emergency ground ambulance transportation services. In order to comply with the requirements of Act 299, the department promulgated an Emergency Rule which amended the provisions governing provider fees and emergency medical transportation enhanced reimbursements (*Louisiana Register*, Volume 45, Number 7). This Emergency Rule is being promulgated in order to continue the provisions of the July 1, 2019 Emergency Rule. This action is being taken in order to secure enhanced federal funding.

Effective October 30, 2019, the Department of Health, Bureau of Health Services Financing amends the provisions governing healthcare service provider fees and emergency medical transportation.

#### **Title 48**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part I. General Administration**

#### **Subpart 1. General**

### **Chapter 40. Provider Fees**

#### **§4001. Specific Fees**

##### **A. Definitions**

*Emergency Ground Ambulance Service Provider*—a non-public, non-federal provider of emergency and non-emergency ground ambulance services.

\* \* \*

##### **B. - D. ...**

**E. Emergency and Non-Emergency Ground Ambulance Services.** Effective August 1, 2016, a fee shall be imposed on emergency ground ambulance service providers for

emergency ground ambulance services in accordance with R.S. 46:2626. Effective July 1, 2019, this fee shall also include non-emergency ambulance services.

1. The total assessment for the initial state fiscal year in which the assessment is charged shall not exceed the lesser of the following:

a. ...

b. 1 1/2 percent of the net operating revenue of all emergency ground ambulance service providers assessed relating to the provision of emergency and non-emergency ground ambulance transportation.

2. Except for the first year maximum fee of 1 1/2 percent of the net operating revenue, the department shall not impose any new fee or increase any fee on any emergency ground ambulance service provider on or after July 1, 2016, without first obtaining either of the following:

a. ...

b. written agreement of those providers subject to the fee which provide a minimum of 65 percent of the emergency and non-emergency ground ambulance transports.

3. After the initial year of assessment, the assessment shall be a percentage fee, determined at the discretion of the secretary and subject to the provisions below in collaboration with the express and written mutual agreement of the emergency ground ambulance service providers subject to the assessment and which make up a minimum of 65 percent of all emergency and non-emergency ground ambulance transports in the state of Louisiana.

a. ...

4. Repealed.

F. - F.5. ...

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:100 (January 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1887, 1888 (November 2016), LR 43:73 (January 2017), repromulgated LR 43:323 (February 2017), amended LR 44:1015 (June 2018), LR 44:1894 (October 2018), LR 45:

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part XXVII. Medical Transportation Program**

#### **Chapter 3. Emergency Medical Transportation**

#### **Subchapter B. Ground Transportation**

#### **§331. Enhanced Reimbursements for Qualifying Emergency Ground Ambulance Service Providers**

##### **A. Emergency Medical Transportation**

1. Qualifying emergency ambulance service providers assessed a fee as outlined in LAC 48:I.4001.E.1.a-b shall receive enhanced reimbursement for emergency ground ambulance transportation services rendered during the quarter through the Supplemental Payment Program described in the Medicaid State Plan.

2. Effective for dates of service on or after July 1, 2019, qualifying emergency ambulance service providers assessed a fee as outlined in LAC 48:I.4001.E.1.a-d shall receive enhanced reimbursement for non-emergency ground ambulance transportation services rendered during the quarter through the Supplemental Payment Program described in the Medicaid State Plan.

B. - B.4. ...

##### **C. Payment Methodology**

1. Payment will include non-emergency ground ambulance services after July 1, 2019. The enhanced reimbursement to each qualifying emergency ground ambulance service provider shall not exceed the sum of the difference between the Medicaid payments otherwise made to these providers for the provision of emergency and non-emergency ground ambulance transportation services and the average amount that would have been paid at the equivalent community rate.

2. - 2.a. ...

3. The specific methodology to be used in establishing the enhanced reimbursement payment for ambulance providers is as follows.

a. The department shall identify Medicaid ambulance service providers that qualify to receive enhanced reimbursement Medicaid payments for the provision of emergency and non-emergency ground ambulance transportation services.

b. For each Medicaid ambulance service provider identified to receive enhanced reimbursement Medicaid payments, the department shall identify the emergency and non-emergency ground ambulance transportation services for which the provider is eligible to be reimbursed.

c. For each Medicaid ambulance service provider described in Subparagraph C.3.a of this Section, the department shall calculate the reimbursement paid to the provider for the provision of emergency and non-emergency ground ambulance transportation services identified under Subparagraph C.3.b of this Section.

d. ...

e. For each Medicaid ambulance service provider described in Subparagraph C.3.a of this Section, the department shall subtract an amount equal to the reimbursement calculation for each of the emergency and non-emergency ground ambulance transportation services under Subparagraph C.3.c of this Section from an amount equal to the amount calculated for each of the emergency and non-emergency ground ambulance transportation services under Subparagraph C.3.d of this Section.

f. For each Medicaid ambulance service provider described in Subparagraph C.3.a of this Section, the department shall calculate the sum of each of the amounts calculated for emergency and non-emergency ground ambulance transportation services under Subparagraph C.3.e. of this Section.

g. - h. ...

##### **D. Effective Date of Payment**

1. The enhanced reimbursement payment shall be made effective for emergency ground ambulance transportation services provided on or after August 1, 2016,

and for non-emergency ground transportation services provided after July 1, 2019. This payment is based on the average amount that would have been paid at the equivalent community rate.

2. After the initial calculation for fiscal year 2015-2016 for emergency ground ambulance transportation services and after the initial calculation for fiscal year 2019-2020 for non-emergency ground ambulance transportation services, the department will rebase the equivalent community rate using adjudicated claims data for services from the most recently completed fiscal year. This calculation may be made annually but shall be made no less than every three years.

E. - E.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:1890 (November 2016), amended LR 45:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1909#065

## **DECLARATION OF EMERGENCY**

### **Department of Health Bureau of Health Services Financing**

#### **Inpatient Hospital Services—Reimbursement Methodology—Outlier Pool Rate Increase (LAC 50:V.954)**

The Department of Health, Bureau of Health Services Financing amends LAC 50:V.954 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

House Concurrent Resolution 5 (HCR 5) of the 2019 Regular Session of the Louisiana Legislature directed the Department of Health, Bureau of Health Services Financing to set the catastrophic outlier pool aggregate payment amount in Medical Assistance Program to be no less than fifty percent of the amount of the total hospital outlier claims submitted with dates of service in state fiscal year 2017-2018. In order to comply with the requirements of HCR 5, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services to increase

outlier pool payments (*Louisiana Register*, Volume 45, Number 7). This Emergency Rule is being promulgated in order to continue the provisions of the July 1, 2019 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to inpatient hospital services.

Effective October 30, 2019, the Department of Health, Bureau of Health Services Financing amends the provisions governing inpatient hospital services reimbursement to increase outlier pool payments.

## **Title 50**

## **PUBLIC HEALTH—MEDICAL ASSISTANCE**

### **Part V. Hospital Services**

#### **Subpart 1. Inpatient Hospital Services**

#### **Chapter 9. Non-Rural, Non-State Hospitals**

#### **Subchapter B. Reimbursement Methodology**

#### **§554. Outlier Payments**

A. - I.2. ...

J. Effective on or after July 1, 2019, the outlier pool for admissions during SFY 2019 and subsequent state fiscal years shall cover eligible claims and shall not exceed \$21,092,179 annually. Payment shall be the costs of each hospital's eligible claims less the prospective payment, divided by the sum of all eligible claims costs in excess of payments, multiplied by \$21,092,179.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:519 (March 2010), amended LR 39:3096 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 45:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1909#066

## **DECLARATION OF EMERGENCY**

### **Department of Health Bureau of Health Services Financing**

#### **Nursing Facilities—Licensing Standards Virtual Visitation (LAC 48:I.9781)**

The Department of Health, Bureau of Health Services Financing adopts LAC 48:I.9781 as authorized by R.S. 36:254 and 40:1193.1-1193.11. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 596 of the 2018 Regular Session of the Louisiana Legislature, hereafter referred to as the Nursing Home Virtual Visitation Act, enacted R.S. 40:1193.1-1193.11 which directed the Department of Health to establish provisions governing nursing facility virtual visitation in order to provide for consent, by a nursing facility resident or a legal representative, relative to the authorization for installation and use of a monitoring device in the room of the resident.

In compliance with the requirements of Act 596, the Department of Health, Bureau of Health Services Financing amended the provisions governing the licensing of nursing facilities in order to adopt provisions governing virtual visitation (*Louisiana Register*, Volume 44, Number 11). This Emergency Rule is being promulgated in order to continue the provisions of the November 20, 2018 Emergency Rule. This action is being taken to promote the health and well-being of Louisiana residents in nursing facilities that consent to the authorization for installation and use of a monitoring device in the resident's room.

Effective November 18, 2019, the Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing of nursing facilities in order to adopt provisions governing virtual visitation.

#### **Title 48**

### **PUBLIC HEALTH—GENERAL**

#### **Part I. General Administration**

#### **Subpart 3. Licensing and Certification**

### **Chapter 97. Nursing Facilities**

#### **Subchapter C. Resident Rights**

#### **§9781. Virtual Visitation**

A. Each nursing facility licensed by the Department of Health shall comply with the provisions of the Nursing Home Virtual Visitation Act of 2018 enacted by the Louisiana Legislature, or such amendments enacted thereafter.

B. The term *monitoring device*, as used in this Section, shall have the same meaning as defined in the Nursing Home Virtual Visitation Act of 2018.

#### **C. Capacity to Consent to Virtual Visitation**

1. A resident's capacity to consent to the authorization for installation and use of a monitoring device is presumed if the resident has not been interdicted and has no current documented medical diagnosis affecting capacity.

2. Any question as to capacity of a non-interdicted resident to consent to the authorization for installation and use of a monitoring device shall be determined by the resident's admitting physician, the resident's personal physician, or the medical director of the nursing facility; such determination shall be documented in the resident's medical record.

3. The nursing facility shall have a policy regarding capacity to consent to the authorization for installation and use of a monitoring device in a resident's room; such policy shall include, at a minimum, the provisions of §9781.C.1 and §9781.C.2.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 40:1193.1-1193.11.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton

Rouge, LA 70821. Ms. Castello is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1909#067

## **DECLARATION OF EMERGENCY**

### **Department of Health Bureau of Health Services Financing**

#### **Therapeutic Group Homes—Licensing Standards Criminal Background Checks (LAC 48:I.6210)**

The Department of Health, Bureau of Health Services Financing adopts LAC 48:I.6210 as authorized by R.S. 36:254 and Act 243 of the 2019 Regular Session of the Louisiana Legislature. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 243 of the 2019 Regular Session of the Louisiana Legislature requires that licensing standards for therapeutic group homes (TGH) comply with federal guidelines for Bureau of Criminal Identification and Information criminal background checks and Department of Children and Family Services (DCFS) abuse/neglect registry checks to provide criminal history record information for owners, operators, managers or administrators, employees, contractors, or paid or unpaid volunteers or interns of a TGH that have the potential of providing daily care or supervision to children or youth in the custody, or under the supervision, of any Louisiana state government agency. In compliance with Act 243, the Department of Health, Bureau of Health Services Financing now adopts provisions governing the licensing of TGHs in order to comply with federal criminal background check and DCFS abuse/neglect registry check requirements.

This action is being taken to promote the health and welfare of children and youth receiving therapeutic group homes services. It is estimated that the implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2019-2020.

Effective September 20, 2019, the Department of Health, Bureau of Health Services Financing adopts licensing provisions governing criminal background checks and abuse/neglect registry checks for therapeutic group homes.

#### **Title 48**

### **PUBLIC HEALTH—GENERAL**

#### **Part I. General Administration**

#### **Subpart 3. Licensing**

### **Chapter 62. Therapeutic Group Homes**

#### **Subchapter B. Licensing**

#### **§6210. Criminal Background Checks; Prohibitions to Ownership of and Employment at a Therapeutic Group Home; Process; Fees**

A. The provisions of this Section shall apply to the following persons:

1. any person who owns, operates, or manages a licensed therapeutic group home (TGH);

2. any person who has applied for a license to operate a therapeutic group home;

3. any person who is employed by, is contracted by, volunteers at, or interns with a therapeutic group home;

4. any person who has applied to be employed or contracted by a therapeutic group home; and

5. any person who has applied to volunteer or intern with a therapeutic group home.

B. The provisions of this Section shall not apply to contractors or other individuals providing a service at the therapeutic group home who are not employees, volunteers, interns, or contracted members of the staff of the therapeutic group home, including but not limited to plumbers, landscapers, or visiting resources.

1. For purposes of this Section only, a volunteer is defined as an individual who offers direct care services to clients at the TGH on behalf of the provider for the benefit of the provider willingly and without pay.

2. For purposes of this Section only, an intern is defined as a student or trainee, either paid or unpaid, who offers direct care services to clients of the TGH on behalf of the provider in order to gain work or clinical experience.

C. No person who has been convicted of, or pled guilty to, or pled nolo contendere to a crime listed in §6210.C.1–5, or whose name is recorded on the State Central Registry within the Department of Children and Family Services (DCFS) as a perpetrator for a justified finding of abuse or neglect of a child, or whose name is on any other state's child abuse and neglect registry or repository, may be the owner, operator, manager or administrator of a TGH, be employed by or contracted with a TGH, or be a volunteer or intern, paid or unpaid, at a TGH:

1. R.S. 14:28.1, 14:30, 14:30.1, 14:31, 14:32.6, 14:32.7, 14:32.8, 14:32.12, 14:35.2, 14:38.1; 14:40.1, 14:40.3, 14:40.7, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.1.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:44.2, 14:45, 14:46.4, 14:66, 14:74, 14:79.1, 14:80, 14:80.1, 14:81, 14:81.1., 14:81.2, 14:81.3, 14:81.4, 14:81.5, 14:82, 14:82.1, 14:82.2, 14:83, 14:83.1, 14:83.2, 14:83.3, 14:83.4, 14:85, 14:86, 14:89, 14:89.1, 14:89.2, 14:92, 14:93, 14:93.2.1, 14:93.2.1, 14:93.3, 14:93.4, 14:93.5, 14:106, 14:282, 14:283, 14:283.1, 14:284, 14:286, crimes of violence as defined in R.S. 14:2(B), sex offenses as defined in R.S. 15:541, or the attempt or conspiracy to commit any of these offenses;

2. R.S. 40:966(A), 40:967(A), 40:968(A), 40:969(A), and 40:970(A), or the attempt or conspiracy to commit any of these offenses;

3. a felony offense involving theft, pursuant to R.S. 14:67, or theft of assets of an aged person or person with a disability, pursuant to R.S. 14:67.1, in excess of \$500; or, a felony offense involving theft in any case in which the offender has been previously convicted of theft, pursuant to either R.S. 14:67 or R.S. 14:67.1, regardless of the value of the instant theft; or the attempt or conspiracy to commit any of these offenses;

4. those of a jurisdiction other than Louisiana which, in the judgment of the department, would constitute a crime under the provisions cited in this Section; and

5. those under the Federal Criminal Code having analogous elements of criminal and moral turpitude.

D. Notwithstanding the provisions of §6210.C above, LDH may, at its discretion, approve a waiver for a person who has a felony conviction for physical assault or battery as provided for in R.S. 14:34 and 14:37, or for a drug-related offense provided for in R.S. 40:966(A), 967(A), 968(A), 969(A), or 970(A), provided that the conviction was at least five years from the date of the request for waiver.

E. Criminal Background Checks, Process and Fees

1. The Department of Health shall request, consistent with the provisions of R.S. 15:587.1.2, from the Bureau of Criminal Identification and Information (the bureau), information concerning whether or not any of the persons listed in §6210.A has been arrested for, convicted of, or pled nolo contendere to any criminal offense.

a. The request shall be on a form prepared by the bureau and signed by a responsible official of LDH making the request;

b. The request shall include a statement signed by the person about whom the request is made which gives his/her permission for such information to be released; and

c. The person about whom the request is made shall submit his/her fingerprints in a form acceptable to the bureau, if requested by the bureau or the Health Standards Section (HSS).

F. In responding to a request for information regarding criminal history, the bureau shall make available a record of all criminal arrests and convictions prior to the date of request.

G. Upon receiving a request for information regarding criminal history, pursuant to R.S. 15:587.1.2 and R.S. 40:2008.10 (or their successor statutes) and this licensing rule, the bureau shall survey its criminal history records and identification files and make a simultaneous request of the Federal Bureau of Investigation for like information from other jurisdictions. The bureau shall provide a report to HSS promptly and in writing, but provide only such information as is necessary to specify whether or not that person has been arrested for, or convicted of, or pled guilty to, or pled nolo contendere to any crime or crimes, the crimes for which he has been arrested, or convicted, or to which he has pled nolo contendere, and the date or dates on which they occurred.

1. The report provided by the bureau to HSS shall include arrests, convictions, or other dispositions, including convictions dismissed pursuant to Code of Criminal Procedure Articles 893 or 894.

2. When an individual's record contains information which has been expunged, the bureau shall include in its report to HSS the date of the arrest and a notation that the individual's record contains information which has been expunged and that HSS may contact the bureau in order to obtain further information regarding the expunged information.

H. The LDH, as recipient of the criminal background report and information from the bureau, shall maintain the confidentiality of such criminal history information in accordance with applicable federal and/or state law.

1. The bureau's criminal background report, and any information contained therein, including expunged information, shall not be deemed a public record.

2. The information may be used or admitted as evidence in any court proceeding, or employment or disciplinary hearing, in which LDH is an authorized participant.

I. State Central Registry

1. In addition to the criminal background checks, HSS requires that the TGH request information from the DCFS concerning whether or not any of the persons listed in §6210.A is recorded on the State Central Registry as a perpetrator for a justified finding of abuse or neglect of a child.

a. Such information shall be submitted to HSS for its review in §6210.K.

b. If the TGH fails to timely submit this information to HSS for its review, HSS may seek the information directly from DCFS and may sanction the TGH for failing to submit such information to LDH.

J. Other State Registries of Abuse/Neglect

1. For any persons listed in §6210.A who has lived in any other state within the last five years, HSS shall request information from the child abuse and neglect registry or repository of each of those states as to whether the individual's name is recorded on that state's registry or repository.

2. If such information is not readily available or sent to HSS within 15 days of the request, HSS shall complete its review under §6210.K; however, if HSS subsequently receives information from other states' registries or repositories, HSS reserves the right to re-open its review and send a supplemental determination on the individual.

K. For the persons listed in §6210.A, HSS shall review the criminal background check, the State Central Registry (for abuse/neglect of a child), and any other applicable states' child abuse and neglect registry or repository, to determine if the person is eligible to be an owner, operator, manager, or administrator of a TGH, is eligible to be employed by or contracted with a TGH, or is eligible to be a volunteer or intern, paid or unpaid, at a TGH.

1. Notification shall be sent to the TGH.

2. The HSS shall retain such records and determination within a section of the TGH's licensing file for a period of five years, and may be shared with state or federal agencies with authority to access such information; however, such records and determinations are not public records.

L. The costs of any criminal background checks and reviews/checks of abuse/neglect registries or repositories required under statute or this licensing rule shall be the responsibility of the TGH.

1. The HSS may charge a processing fee not to exceed \$15 for the processing of the criminal background check and the review of abuse/neglect registries or repositories.

2. Additionally, HSS hereby requires that the TGH pay the charges and fees of the bureau for a state criminal history report, of the Federal Bureau of Investigation for a federal criminal history report, of the DCFS State Central Registry, and of any other state's registry or repository of abuse/neglect; such payments shall be made directly to those bureaus and agencies.

M. The HSS may request any information necessary from the TGH, from any person subject to the provisions of this Section, or from any other appropriate agency to ensure compliance with the requirements of criminal background checks and abuse/neglect registries or repositories.

N. Existing, Active TGH Licensed Before October 1, 2019

1. For any existing, operating TGH licensed as of October 1, 2019, the licensee shall submit to HSS on or before October 15, 2019, the following:

a. A list of all owners, operators, managers, administrators, employees, contractors, volunteers, and interns of the TGH as of October 15, 2019; such list shall indicate whether any such person has worked in another state within the last five years, including the states where worked, if applicable; and

b. Evidence to HSS that none of these individuals are recorded on the State Central Registry (for abuse/neglect of a child) via DCFS.

2. Each such person listed shall:

a. Submit a signed form or statement by October 15, 2019, giving permission for a criminal background check to be conducted by the bureau, and for the results/report to be submitted to HSS, pursuant to statute and this licensing rule; and

b. Submit his/her fingerprints to the bureau by October 15, 2019;

c. Submit an attestation to HSS on a form provided by HSS wherein the person attests that his/her signed form/statement and his/her fingerprints have been so submitted; this attestation must be received by HSS by October 18, 2019.

3. A person who has timely submitted his/her signed form/statement and his/her fingerprints to the bureau, who has timely submitted the attestation in §6210.N.2, and who is not recorded on the State Central Registry for abuse/neglect of a child or any other states' abuse/neglect registry or repository, may continue to own, operate, manager, administer, be employed, be contracted, volunteer, and/or intern with the TGH until HSS receives and reviews the information or report from the bureau and receives and reviews any information or report from the State Central Registry for abuse/neglect of a child or any other states' abuse/neglect registry or repository.

4. If such information reveals that the person cannot be an owner pursuant to this Section, the department shall notify the licensed TGH, and the TGH shall immediately remove the person from ownership or shall immediately surrender its license.

5. If such information reveals that the person cannot be an operator, manager, administrator, employee, contractor, volunteer, or intern with the TGH pursuant to this Section, HSS shall notify the licensed TGH and the TGH shall immediately terminate the person.

6. No new owner may be obtained and no new operator, administrator, manager, employee, contractor, volunteer, or intern may be hired after October 15, 2019, until that person has submitted his/her signed form/statement and his/her fingerprints to the bureau and HSS has:

a. received and reviewed the information or report from the bureau;

b. received and reviewed the information or report regarding the State Central Registry for abuse/neglect of a child or any other states' abuse/neglect registry or repository; and

c. confirmed that the person can be an owner, operator, administrator, manager, employee, contractor, volunteer, or intern pursuant to the provisions of this Section or of the applicable statutes.

O. A TGH licensed after October 1, 2019

1. Any TGH licensed after October 1, 2019, shall submit with its licensing application to HSS, a list of all proposed owners, operators, administrators, managers, employees, contractors, volunteers, and interns. No new TGH may be licensed after October 1, 2019, until all persons listed have submitted signed forms/statements and fingerprints to the bureau, and HSS has:

a. received and reviewed the information or report from the bureau;

b. received and reviewed the information or report regarding the State Central Registry for abuse/neglect of a child or any other states' abuse/neglect registry or repository; and

c. confirmed that the person can be an owner, operator, administrator, manager, employee, contractor, volunteer, or intern pursuant to the provisions of this Section or of the applicable statute.

2. No new owner or operator may be obtained and no new administrator, manager, employee, contractor, volunteer, or intern may be hired by the TGH after submitting the initial license application, until that person has submitted his/her signed form/statement and his/her fingerprints to the bureau, and HSS has:

a. received and reviewed the information or report from the bureau;

b. received and reviewed the information or report regarding the State Central Registry for abuse/neglect of a child or any other states' abuse/neglect registry or repository; and

c. confirmed that the person can be an owner, operator, administrator, manager, employee, contractor, volunteer, or intern pursuant to the provisions of this Section or of the applicable statutes.

P. Subject to §6210.P.1, LDH's review and determination regarding criminal background check and abuse/neglect registry verification(s) for any person subject to the provisions of this Section, is specific to that licensed TGH only. A separate review and determination, along with new criminal background check and abuse/neglect registry verifications, shall be necessary for any person (who is subject to the provisions of this Section) who is an owner, operator, manager, administrator, employee, contractor, volunteer, or intern at a separately licensed TGH.

1. If two or more licensed TGHs are owned by the same corporate entity and such is noted on the license application and license, then LDH, in its discretion, may allow its review and determination regarding criminal background check and abuse/neglect registry verification for a particular owner, operator, manager, administrator,

employee, contractor, volunteer, or intern who will be at both (or multiple) of the owned TGHs, to be based on the same criminal background check and abuse/neglect registry verifications, provided that the background check and verifications were conducted within the last 90 days.

Q. In addition to other sanctions that may be imposed on a TGH, LDH may also deny initial licensure, revoke an existing license, or deny renewal of a license of a TGH that violates the provisions of this Section or of the applicable statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Act 243 the 2019 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Castello is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH  
Secretary

1909#003

## DECLARATION OF EMERGENCY

### Department of Health Office of Public Health

Added Controlled Dangerous Substances  
(LAC 46:LIII.2704)

The Department of Health, Office of Public Health (LDH/OPH), pursuant to the rulemaking authority granted to the secretary of LDH by R.S. 40:962(C) and (H), hereby adopts the following Emergency Rule for the protection of public health. This rule is being promulgated in accordance with the Administrative Procedure Act (R.S. 49:950, et seq.), is effective September 19, 2019, and shall remain in effect for the maximum period allowed under the Act or until adoption of a final Rule, whichever occurs first.

Based on the criteria, factors, and guidance set forth in R.S. 40:962(C) and 40:963, the secretary, under this rulemaking, has determined that the below listed substances have a high potential for abuse and should be scheduled as controlled dangerous substances to avoid an imminent peril to the public health, safety, or welfare. In reaching the decision to designate the below listed substances as controlled dangerous substances under Schedule I, the secretary has considered the criteria provided under R.S. 40:963 and the specific factors listed under R.S. 40:962(C). The secretary has determined that Schedule I is the most appropriate due to her findings that the substances added herein have a high potential for abuse, the substances have no currently accepted medical use for treatment in the United States, and there is a lack of accepted safety for use of the substances under medical supervision.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part LIII. Pharmacists**

**Chapter 27. Controlled Dangerous Substances**

**Subchapter A. General Provisions**

**§2704. Added Controlled Dangerous Substances**

A. The following drugs or substances are added to Schedule I of the Louisiana Uniform Controlled Dangerous Substances Law, R.S. 40:961 et seq.:

1. flualprazolam
2. clonazepam

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:962, R.S. 40:963, and R.S. 49:953(B).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 45:

Rebekah E. Gee MD, MPH  
Secretary, Department of Health

1909#004

**DECLARATION OF EMERGENCY**

**Department of Treasury**  
**Office of the Treasurer**

Fiscal Administrator Revolving Loan Fund  
(LAC 71:IX.Chapter 1)

The Department of the Treasury, Office of the Treasurer is exercising the emergency provisions of the Administrative Procedure Act, specifically R.S. 49:953(B)(1), to promulgate an Emergency Rule to facilitate disbursement of loans from monies appropriated by the Legislature to the Fiscal Administrator Revolving Loan Fund, R.S. 39:1357. The Department of Treasury has determined that this Emergency Rule is necessary to prevent imminent peril to the public health, safety, and welfare.

The Legislature through the process established in R.S. 39:1351, et seq. has provided a process for the court-ordered fiscal administration of political subdivisions who are determined to no longer be in a status of "financial stability" or who have failed to comply with the provisions of the Audit Law, R.S. 24:513, et seq. for three consecutive years. Political Subdivisions that are determined to be in need of fiscal administration due to non-compliance with the Audit Law are prohibited from receiving State appropriated funds or Federal assistance which passes through the State pursuant to R.S.39:72.1 until such time as a fiscal administrator is appointed by the court and in accordance with the law. The Legislature has enacted the Fiscal Administrator Revolving Loan Fund to provide a source of borrowing for political subdivisions to assist in funding the initial costs of fiscal administration. The Legislature appropriated monies into the Fiscal Administrator Revolving Loan Fund during the 2019 Regular Session.

Currently, there are municipalities that are in need of fiscal administration but do not have the financial resources to pay for the services of the court-appointed fiscal administrator in order to begin fiscal administration. During this time, the municipalities are unable to obtain State and Federal assistance needed to address public health, safety and

welfare, specifically addressing issues concerning urgent needed repairs to public water systems.

Effective October 1, 2019, the Department of Treasury hereby implements this Emergency Rule. The Department of Treasury has begun the process of promulgation of a Rule, but due to the immediate need for fiscal administration and access to state and federal assistance, an interim process is needed to allow for disbursements from the Fiscal Administrator Revolving Loan Fund. This Emergency Rule shall be effective for 120 days or until a final Rule is promulgated, whichever occurs first.

**Title 71**

**TREASURY—PUBLIC FUNDS**

**Part IX. State Assistance to Local Government**

**Chapter 1. Fiscal Administrator Revolving Loan Fund**

**§101. Definitions**

A. For the purpose of this Chapter, the following shall mean:

*Application*—formal request for loan from the fund for the payment of fiscal administration costs.

*Court*—the state district court ordering the independent fiscal administration of the political subdivision and appointment of a fiscal administrator pursuant to R.S. 39:1351, et seq.

*Estimated Costs*—the estimated costs and expenses associated with the independent fiscal administration of the political subdivision, including but not limited to all costs and expenses incurred by the fiscal administrator, the legislative auditor, the attorney general, the state treasurer, an any other persons engaged in connection with the independent fiscal administration.

*Fiscal Administration Costs*—the actual costs and expenses associated with the independent fiscal administration of the political subdivision, including but not limited to all costs and expenses incurred by the fiscal administrator, the legislative auditor, the attorney general, the state treasurer, an any other persons engaged in connection with the independent fiscal administration.

*Fiscal Administrator*—the court appointed fiscal administrator pursuant to R.S. 39:1351, et seq.

*Fund*—the fiscal administrator revolving loan fund, as established in R.S. 39:1357.

*Loan*—maximum principal amount authorized to the political subdivision from the fund through a loan agreement to the department of treasury for the sole purpose of paying fiscal administration costs.

*Loan Agreement*—the executed evidence of indebtedness of the political subdivision to repay the loan from the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1357.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Office of the Treasurer, LR 45:

**§103. Restricted Use of Funds**

A. The monies within the fund shall only be used for the purpose of paying the costs and expenses associated with the independent fiscal administration of the political subdivision, including but not limited to all costs and expenses incurred by the fiscal administrator, the legislative auditor, the attorney general, the state treasurer, an any other



persons engaged in connection with the independent fiscal administration.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 39:1357.

**HISTORICAL NOTE:** Promulgated by the Department of the Treasury, Office of the Treasurer, LR 45:

**§105. Process for Obtaining Loan from the Fund**

A. After passing the resolution or ordinance as described in R.S. 39:1357(E) and (F), the political subdivision shall transmit an application, using the form established by the department of treasury, to the legislative auditor.

B. Such application should contain the following:

1. name of the public entity, including:
  - a. names of chief administrative officer and board/council members;
  - b. physical address;
  - c. mailing address;
  - d. email of chief administrative officer; and
  - e. phone number.
2. name of fiscal administrator, including:
  - a. physical address;
  - b. mailing address;
  - c. email;
  - d. phone number;
  - e. date of appointment; and
  - f. certified copy of court order appointing fiscal administrator.

3. a copy of the written report required to be prepared under R.S. 39:1352(B)(1). In the event that the written report has not yet been prepared, or was prepared more than a year prior to the application, the application shall contain an estimate of the revenues and expenditures of the political subdivision for the remainder of its current fiscal year and the following fiscal year.

4. current budget of the political subdivision with projected expenditures to fiscal year end;
5. financial statements of the political subdivision;
6. a list of current creditors showing existing balances and payment schedules;
7. a list of assets not identified in financial statements;
8. a list of insurance policies, including insurance company name, policy numbers, and type of insurance;
9. sources of funds and evidence of ability to repay the loan requested by this application;
10. anticipated date for end of fiscal administration;
11. the estimated costs as determined by the political subdivision and fiscal administrator; and
12. the requested maximum principal amount of loan.

C. The legislative auditor in its review and approval of the application shall ensure all financial information is included in the application.

D. Upon approval of the application, the legislative auditor shall forward the application to the state treasurer and attorney general for their review and approval.

E. Upon receiving the approval of the application from the legislative auditor, state treasurer, and attorney general, the attorney general shall file a motion to approve the application with the court.

F. Following issuance of an order by the court approving of the political subdivision's application, the political subdivision shall submit, in addition to the requirements of

the state bond commission, the following to the state bond commission for its review and approval:

1. the application;
2. a copy of the approvals of the state treasurer, attorney general, legislative auditor, and fiscal administrator;
3. a certified copy of the court order approving the application;
4. a draft of the proposed loan agreement to secure repayment of the loan from the fund;
5. proof of publication of the resolution or ordinance in the official journal of the political subdivision as required in R.S. 39:1357(F); and
6. a copy of a resolution or ordinance adopted by the political subdivision authorizing the fiscal administrator to execute a loan agreement with the department on behalf of the political subdivision for a loan from the fund setting forth the following:
  - a. maximum principal amount under the loan;
  - b. maximum interest rate;
  - c. maximum term of the loan;
  - d. repayment schedule of the loan;
  - e. security for the loan, if any;
  - f. any redemption features of the loan agreement, including a maximum redemption premium, if any.

G. Upon approval from the state bond commission, the fiscal administrator on behalf of the political subdivision shall execute a loan agreement with the department of treasury containing the details set forth in the application and the adopted resolution or ordinance.

H. Payments from the fund shall be made by the department of treasury upon receipt of invoices from the fiscal administrator approved by the legislative auditor. Such payments shall not exceed the maximum principal amount as established in the loan agreement.

I. Payments from the fund shall be made in the order of approval by the bond commission, absent circumstances where the department of treasury determines that an emergency exists or where the fiscal review committee has adopted a motion prioritizing payments from the fund.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 39:1357.

**HISTORICAL NOTE:** Promulgated by the Department of the Treasury, Office of the Treasurer, LR 45:

**§107. Loan Conditions and Repayment**

A. Each loan shall be evidenced by a loan agreement on a form prescribed or approved by the department of treasury.

B. The interest rate on each loan shall be established by the department of treasury and shall be an interest rate that is less than or equal to the market interest rate.

C. The political subdivision shall tender payments to the department of treasury in accordance with the repayment schedule set forth in the loan agreement.

D. The department of treasury shall credit any payments received to the fund for additional lending under this chapter.

E. The department of treasury may by suit, action, mandamus, or other proceedings, protect and enforce any covenant relating to and the security provided in connection with any indebtedness issued pursuant to R.S. 39:1357, and may by suit, action, mandamus, or other proceedings enforce and compel performance of all of the duties required to be

performed by the governing body or officials of any political subdivision hereunder and in any proceedings authorizing the issuance of the loan agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1357.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Office of the Treasurer, LR 45:

John M. Schroder  
State Treasurer

1909#009

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Modification and Reopening of the 2019 Private Recreational Red Snapper Season**

Louisiana's private recreational red snapper season was previously set by the Wildlife and Fisheries Commission at its regular meeting on May 2, 2019, to be open on weekends only (Friday, Saturday, and Sunday) including the Monday of Memorial Day and the fourth of July beginning on May 24, 2019. The recreational season was further modified to include the Monday of Labor Day (September 2, 2019) and close on September 3, 2019. LA Creel data indicate that harvest rates are such that the state recreational allocation was not met during the previous season and a reopening is warranted.

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary by the commission at its regular meeting on May 2, 2019, the secretary hereby declares:

The season for the private recreational harvest of red snapper in federal and state waters off Louisiana will reopen beginning on Friday, September 27, 2019, at 12:01 a.m. for weekends only (Friday, Saturday, and Sunday) and remain open until Monday, October 7, 2019, at 12:01 a.m. at which time it will close until further notice.

Any closure shall prohibit the possession and/or landing of red snapper in Louisiana waters, except for federally permitted charter boats or commercial Individual Fishing

Quota holders operating under federal law during federally established seasons and rules for those vessels.

Jack Montoucet  
Secretary

1909#006

## **DECLARATION OF EMERGENCY**

### **Department of Wildlife and Fisheries Wildlife and Fisheries Commission**

#### **Modification and Reopening of the 2019 Private Recreational Red Snapper Season**

Louisiana's private recreational red snapper season was previously set by the Wildlife and Fisheries Commission at its regular meeting on May 2, 2019, to be open on weekends only (Friday, Saturday, and Sunday) including the Monday of Memorial Day and the fourth of July beginning on May 24, 2019. The recreational season was further modified to include the Monday of Labor Day (September 2, 2019) and close on September 3, 2019 and then to reopen for two consecutive weekends between September 27, 2019 and October 6, 2019. LA Creel data indicate that harvest rates are such that the state recreational allocation was not met during the previous season and a reopening is warranted.

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary by the commission at its regular meeting on May 2, 2019, the secretary hereby declares:

The season for the private recreational harvest of red snapper in federal and state waters off Louisiana will reopen beginning on Friday, October 11, 2019, at 12:01 a.m. for weekends only (Friday, Saturday, and Sunday) and remain open until Monday, October 28, 2019, at 12:01 a.m. at which time it will close until further notice.

Any closure shall prohibit the possession and/or landing of red snapper in Louisiana waters, except for federally permitted charter boats or commercial Individual Fishing Quota holders operating under federal law during federally established seasons and rules for those vessels.

Jack Montoucet  
Secretary

1909#052

# Rules

## RULE

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

#### Citrus Greening Quarantine (LAC 7:XV.127)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:1652, notice is hereby given that Department of Agriculture and Forestry (department) amends the rule set forth below expanding a previously established quarantine for citrus greening disease (CG), also known as Huanglongbing disease of citrus, caused by the bacterial pathogen *Candidatus Liberibacter* spp. The state entomologist has determined that CG has been found in this state and may be prevented, controlled, or eradicated by quarantine. The existing quarantine presently includes the parishes of Orleans, Washington, and Jefferson. This proposed rule expands the quarantine to include St. Bernard and Plaquemines Parishes.

CG poses an imminent peril to the health and welfare of the Louisiana commercial citrus industry due to its ability to infest rutaceous plants. This industry has a farm value of \$2.4 - \$5 million in southeastern Louisiana in the form of citrus nursery stock, and \$5.1 million in the form of commercial citrus fruit in the state. CG renders the fruit unmarketable and ultimately causes death of infested plants. Failure to prevent, control, or eradicate this pest threatens to destroy Louisiana's commercial citrus industry and the growing and harvesting of citrus by citizens of Louisiana for their own private use.

Louisiana's commercial citrus industry adds \$7.5 - \$10 million dollars to the state's agriculture economy each year. Sales of citrus trees and plants by nursery stock dealers to private individuals also are important to the state's economy. The loss of the state's commercial citrus industry and privately owned citrus trees and fruit would be devastating to the state's economy and to its private citizens. The quarantine established by this emergency regulation is necessary to prevent the spread of CG in Louisiana outside of the current areas where this disease has already been found.

For these reasons, the outbreak CG in Louisiana presents an imminent peril to the health, safety and welfare of Louisiana's citizens and the state's commercial and private citrus industry. As a result of this imminent peril, the Department of Agriculture and Forestry hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by expanding the quarantine in LAC 7:XV.127 to include St. Bernard and Plaquemines Parishes. This Rule is hereby adopted on the day of promulgation.

## Title 7

### AGRICULTURE AND ANIMALS

#### Part XV. Plant Protection and Quarantine

##### Chapter 1. Crop Pests and Diseases

##### Subchapter B. Nursery Stock Quarantines

##### §127. Citrus Nursery Stock, Scions and Budwood

###### A.- D.1. ...

2. Quarantined Areas. The quarantined areas in this state are the parishes of Orleans, Washington, Jefferson, St. Bernard, Plaquemines, and any other areas found to be infested with CG. The declaration of any other specific parishes or areas shall be published in the official journal of the state and in the *Louisiana Register*.

###### D.3. - G.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 40:1308 (July 2014), LR 42:730 (May 2016), LR 44:439 (March 2018), LR 45:1435 (October 2019).

Mike Strain DVM  
Commissioner

1910#029

## RULE

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

#### Emerald Ash Borer Quarantine (LAC 7:XV.167)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:1652, notice is hereby given that the Department of Agriculture and Forestry (department) has amended the Rule set forth below, expanding a previously established quarantine for the following pest: emerald ash borer (EAB), *Agrilus planipennis* Fairmaire. The existing quarantine presently includes the parishes of Bienville, Bossier, Claiborne, Jackson, Morehouse, Lincoln, Ouachita, Union and Webster. This proposed Rule expands the quarantine to include Caddo Parish.

EAB poses an imminent peril to the health and welfare of Louisiana forests, commercial and private forestry/wood product industries, and nursery growers due to its ability to infest ash trees. In 2013, the wholesale value of woody ornamental sales for nursery growers in the state was \$62.6 million, a portion of which is comprised of sales of ash trees (Louisiana State University AgCenter 2013 Louisiana Summary, Agriculture and Natural Resources). Louisiana's forests and forestry/wood products industries generated an

output industry production value of \$10.86 billion in 2012, a portion of which is comprised of ash trees and ash tree products (Louisiana State University AgCenter publication 3367-G, 2015). Sales of ash firewood by retail and wholesale suppliers to private individuals also are important to the state's economy.

Natural spread of EAB is limited to relatively short distances. However, without restriction, EAB can spread through human-assisted means over long distances via infested ash nursery stock, ash logs/timber and cut firewood. Once an ash tree is infested, it experiences twig dieback and tree decline. Tree death occurs within a few years. Failure to prevent, control, or eradicate this pest threatens to damage Louisiana's commercial ash tree nursery industry, and over time this pest poses a threat to destroy the majority of ash in our state, both commercial and residential. The loss of the state's commercial nursery-grown ash trees, forestry/wood ash products and even residential ash trees would be devastating to the state's economy and to its private citizens. The quarantine established by this emergency regulation is necessary to prevent the spread of EAB to all areas in Louisiana where ash may exist, outside of the current areas where this pest has been found.

For these reasons, the presence of EAB in Louisiana presents an imminent peril to the health, safety and welfare of Louisiana's citizens and forests, the state's commercial and private forestry/wood product industries, and nursery growers. As a result of this imminent peril, the Department of Agriculture and Forestry and state entomologist hereby exercise its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by expanding the quarantine in LAC 7:XV.167 to include Caddo Parish. This Rule is hereby adopted on the day of promulgation.

#### **Title 7**

### **AGRICULTURE AND ANIMALS**

## **Part XV. Plant Protection and Quarantine**

### **Chapter 1. Crop Pests and Diseases**

#### **Subchapter F. Emerald Ash Borer Quarantine**

#### **§167. Emerald Ash Borer Quarantine**

A. - B. ...

1. The entire parishes of Bienville, Bossier, Caddo, Claiborne, Jackson, Morehouse, Lincoln, Ouachita, Union and Webster.

B.2. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652, 3:1653.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 41:2577 (December 2015), amended LR 43:245 (February 2017), amended LR 44:1589 (September 2018) LR 45:1436 (October 2019).

Mike Strain DVM  
Commissioner

1910#054

## **RULE**

### **Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences**

#### **Guava Root Knot Quarantine (LAC 7:XV.171)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:1652, notice is hereby given that the Department of Agriculture and Forestry (department) has adopted the rule set forth below, establishing a quarantine for the following pest: Guava Root Knot Nematode (GRKN), *Meloidogyne enterolobii*. The state entomologist has determined that GRKN has been found in this state and may be prevented, controlled, or eradicated by quarantine. This quarantine was first established by emergency rule published at LR 45:2, p. 194.

Guava Root Knot Nematode (GRKN) poses an imminent threat to the health and welfare of Louisiana's sweet potato, sugarcane, cotton, and soybean industries. In 2017, the total value of sweet potato production, including value added was \$92.6 million (Louisiana State University AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources). Sugarcane is also a host for GRKN. The gross farm value for sugarcane in Louisiana was \$589.3 million and the total value of the sugarcane crop to producers, processors, etc. at the first processing level was \$989.5 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources). The gross farm value for cotton in Louisiana was \$139.7 million and the total value of cotton production was \$210.1 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources). The gross farm value for soybeans in Louisiana was \$679.4 million and when value-added activities are included the total economic impact of the soybean industry is estimated at \$798.2 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources).

In addition to the aforementioned crops, GRKN is also a threat to the nursery and commercial vegetable industries. The gross value of commercial nursery production was \$107.1 million and the total value of nursery production was \$166.04 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources). Commercial vegetable production's gross value in 2017 was \$79.4 million and the total value of commercial vegetable production was \$186.7 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources).

Guava Root Knot Nematode has only been positively identified in a very small area of Louisiana but this pest could impact almost every agriculture related industry in Louisiana if it were to become established. GRKN has a wide host range of crops and also weeds that it infects. It also has a high rate of reproduction so the use of fumigants would only temporarily reduce the nematode's populations. In addition, GRKN has been found to attack the native Southern root knot nematode resistant varieties of cotton, tomato, pepper, soybean and sweet potato.

The natural dispersal of GRKN is limited to very short distances. However without quarantine restrictions, GRKN could spread through human assisted means over long distances through GRK infested sweet potatoes, nursery stock, and commercial farm equipment.

In other states where GRKN is found, sweet potatoes are not harvested because the potatoes are of such poor quality and shape that they cannot be sold. Also in some instances, only certain crops can be grown in GRKN infested soil limiting the farmer's ability to diversify their crops and markets.

For these reasons the presence of GRKN in Louisiana presents a peril to the integrity and stability of Louisiana's agriculture industries. As a result of this imminent peril, the Department of Agriculture and Forestry hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by imposing the quarantines set out in the regulations proposed herein. This Rule is hereby adopted on the day of promulgation.

## **Title 7**

### **AGRICULTURE AND ANIMALS**

#### **Part XV. Plant Protection and Quarantine**

##### **Chapter 1. Crop Pests and Diseases**

##### **Chapter H. Guava Root Knot Nematode Quarantine**

##### **§171. Guava Root Knot Nematode Quarantine**

A. The department issues the following quarantine because the state entomologist has determined that the Guava Root Knot Nematode, *Meloidogyne enterolobii*, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

B. Quarantine Areas:

1. the states of Florida, North Carolina, and South Carolina;

2. a declaration of quarantine for guava root knot nematode covering any specific parish or area in Louisiana or any other state shall be published in the official journal of the state and in the *Louisiana Register*.

C. No regulated articles as defined in this Section shall be moved into any area of this state, except as provided in this Section.

D. The following articles are hosts of guava root knot nematode or may harbor guava root knot nematode and are deemed to be regulated articles for purposes of this Subsection:

1. the guava root knot nematode in all of its life stages; plant parts, specifically sweet potatoes, from Florida, North Carolina, and South Carolina that can harbor the guava root knot nematode; soil from the above-mentioned quarantined states that may harbor the guava root knot nematode; commercial planting and/or harvesting equipment from the above-mentioned quarantined states;

2. certified seed sweet potatoes may be moved from the quarantine area into Louisiana under a Special Permit issued by Louisiana Department of Agriculture and Forestry.

3. nursery crops may not be moved from the quarantine area into Louisiana, whether direct from said area or by diversion or reconsignment from any other point, unless each shipment or lot is accompanied by a certificate issued by the authorized agricultural official of the state, certifying the material to be free from guava root knot nematode.

4. any other article, product, or means of conveyance not listed in this Section may be designated as a regulated article if an inspector determines that it presents a risk of spreading guava root knot nematode and notifies the person in possession of the article, product, or means of conveyance that it is subject to the restrictions of the regulations.

E. Commercial planting and/or harvesting equipment may be moved from quarantined areas into Louisiana only if moved under the following conditions.

1. The commercial equipment being moved is accompanied by a state of origin certificate issued by the state regulatory agency.

2. The commercial equipment must be thoroughly cleaned of any soil and plant debris and inspected by the state regulatory agency. The state regulatory agency must issue a state phytosanitary certificate attesting to the inspection and cleaning of the equipment.

F. Any person violating this quarantine shall be subject to imposition of the remedies and penalties set forth in R.S. 3:1653.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652, 3:1653.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 45:1437 (October 2019).

Mike Strain DVM  
Commissioner

1910#030

## **RULE**

### **Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences**

#### **Sweet Potato Certification Standards (LAC 7:XIII.755)**

Editor's Note: This Rule is being reprinted because of an error upon submission. The original Rule may be viewed on page 1167 of the September 20, 2019 *Louisiana Register*.

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry ("Department") and the Agricultural Chemistry and Seed Commission has amended LAC 7:XIII.755 to differentiate Guava Root Knot Nematode ("GRKN") from other Root Knot Nematode species and apply a zero tolerance for GRKN in certified sweet potato seed. GRKN is aggressive and can cause severe damage to host plant species. GRKN poses an imminent threat to the health and welfare of Louisiana's sweet potato industry.

GRKN was introduced to Louisiana in 2018 through sweet potato seed originating from out-of-state. GRKN has only been positively identified in a very small area of Louisiana but this pest could impact almost every agriculture related industry in Louisiana if it were to become established. In addition, GRKN has been found to attack the native Southern root knot nematode resistant varieties of sweet potato. In other states where GRKN is found, sweet potatoes are not harvested because the potatoes are of such poor quality and shape that they cannot be sold. Also in some instances, only certain crops can be grown in GRKN infested soil limiting the farmer's ability to diversify their crops and markets.

For these reasons, the existence of GRKN in Louisiana presents a peril to the integrity and stability of Louisiana's agriculture and sweet potato industries. The proposed change to LAC 7:XIII.755 would help prevent the spread of GRKN to other parts of the state by applying a zero tolerance standard for its presence in certified sweet potato seed. This Rule is hereby adopted on the day of promulgation.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XIII. Seeds

#### Chapter 7. Certification of Specific Crops/Varieties

#### Subchapter B. Grain and Row Crop Seeds

#### §755. Sweet Potato Certification Standards (Virus and Non Virus-Tested)

A. - G.4.b. ...

c. Specific Seed Root Tolerance Standards of Virus-Tested and Non-Virus-Tested Sweet Potatoes

Maximum Tolerance Allowed for Virus-tested and Non Virus-tested Sweet Potatoes		
Presence or symptoms of:	G1 (Foundation) G2 (Certified) Seed Roots	G3 (Certified) Seed Roots
Surface rots ( <i>Fusarium</i> spp.) and Soft Rots ( <i>Rhizopus</i> spp.)	5%	5%
Bacterial Root Rot ( <i>Erwinia</i> spp.)	none	None
Black Rot ( <i>Ceratocystis fimbriata</i> )	none	None
Scurf ( <i>Monilochaetes infusans</i> )	1.0%	2.0%
Streptomyces soil rot ( <i>Streptomyces ipomoeae</i> )	2.5%	5.0%
Root-Knot Nematode - ( <i>Meloidogyne</i> spp.) (Other than Guava Root-Knot Nematode)	1.0%	2.0%
Guava Root-Knot Nematode ( <i>Meloidogyne enterolobii</i> )	None	None
Russet Crack (a strain of SPFMV)	None	None
Wilt ( <i>Fusarium oxysporum</i> f. sp. <i>batatas</i> )	None	None
Sweetpotato Weevil ( <i>Cylas formicarius</i> )	None	None
Exotic or hazardous pests	None	None
Variety Mixture	None	None
Off-types (mutations)	0.20%	0.50%

H. - I.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:579 (November 1982), amended LR 9:202 (April 1983), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 22:1210 (December 1996), LR 36:1220 (June 2010), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2725 (October 2013), amended LR 40:755 (April 2014), LR 44:1855 (October 2018), LR 45:1167 (September 2019), repromulgated LR 45:1438 (October 2019).

Mike Strain, DVM  
Commissioner

1910#005

## RULE

### Department of Children and Family Services Economic Stability Section

Public Assistance Programs (LAC 67:III.Chapter 12, 1503, Chapter 19, 2005, and Chapter 53)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) has amended the *Louisiana Administrative Code* (LAC), Title 67, Part III Economic Stability.

Pursuant to the authority granted to the department by the Food and Nutrition Act of 2008 in accordance with federal regulations for the Supplemental Nutrition Assistance Program (SNAP) in 7 CFR and Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant, the department considers these amendments necessary to clarify or adopt rules that govern Economic Stability programs.

Subpart 2 Family Independence Temporary Assistance Program, Section 1201 has been amended to clarify that the application date shall be the workday following the date of receipt if applications are received after 4:30 p.m. central time. Section 1203 has been amended to clarify that children receiving foster care payments may not be included in the filing unit. Section 1205 has been amended to remove reference to mailing a payment. Section 1207 and 1209 have been amended to correct typographical errors. Section 1249 has been amended to no longer require the drug assessment referral packet to include a photograph. Section 1257 has been amended to maintain compliance with 7 CFR §273.12(a), which shall adjust change report thresholds annually based on fluctuations in the Consumer Price Index. Section 1503 has been amended to update the inadvertent household error and administrative error claim threshold for nonparticipating households.

Subpart 3 Supplemental Nutritional Assistance, Section 1935 has been amended to maintain compliance with 7 CFR 273.7(e), which revised the description of acceptable employment and training education components to ensure that exceptions to the prohibition on student SNAP eligibility focus appropriately on educational programs that deliver skills needed for the current job market. Section 1957 and 1991 have been amended to maintain compliance with 7 CFR 273.10(e)(2)(ii)(C), which removed the requirement for three or more members entitled to allotments of \$1, \$3, and \$5 to be issued allotments of \$2, \$4, and \$6. Section 1968 has been promulgated to be in compliance with section 5(e)(6)(D) of the Food and Nutrition Act of 2008 to provide a shelter deduction for homeless households who have shelter costs. Section 1987 has been amended to clarify that all members must receive TANF or Supplemental Security Income (SSI) to be considered a categorically eligible household and to adopt broad-based categorical eligibility rules that increase access to SNAP benefits. Households may be considered broad-

based categorically eligible for SNAP benefits upon receipt of a non-cash Temporary Assistance for Needy Families (TANF)/Maintenance of Effort (MOE) funded benefit or service and therefore not subject to the resource limit. Section 2005 has been amended to update the inadvertent household error and administrative error claim threshold for nonparticipating households.

Subpart 13 Kinship Care Subsidy Program (KCSP), Section 5301 has been amended to clarify that the application date shall be the workday following the date of receipt if applications are received after 4:30 p.m. central time. Section 5305 has been amended to clarify that changes reported during the reapplication period that result in case closure or benefit reduction are effective the month following the redetermination month. Section 5323 has been amended to include an Iraqi or Afghan immigrant who has been granted Special Immigrant Visa (SIV) status as a qualified alien. Section 5329 has been amended to exclude grant funded research payments from countable income. Section 5347 is being amended to maintain compliance with 7 CFR §273.12(a), which shall adjust change report thresholds annually based on fluctuations in the Consumer Price Index. Section 5383 has been amended to update the inadvertent household error and administrative error claim threshold for nonparticipating households. This Rule is hereby adopted on the day of promulgation, and is effective November 1, 2019.

## **Title 67**

### **SOCIAL SERVICES**

#### **Part III. Economic Stability**

##### **Subpart 2. Family Independence Temporary Assistance Program**

##### **Chapter 12. Application, Eligibility, and Furnishing Assistance**

##### **Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance**

##### **§1201. Application Date**

A. All individuals applying for FITAP shall be considered applicants for assistance and shall file a written and signed application form under penalty of perjury. The date the application form is received by the department shall be considered the date of application. If an application is received after 4:30 p.m. central time, the following workday shall be considered the date of application. If determined eligible, benefits shall be prorated from the date of application.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2446 (December 1999), amended by the Department of Children and Family Services, Economic Stability, LR 45:1439 (October 2019).

##### **§1203. Standard Filing Unit**

A. The mandatory filing unit includes the child, the child's siblings (including half and step-siblings) and the parents (including legal stepparents) of any of these children living in the home. In the case of the child of a minor parent, the filing unit shall include the child, the minor parent, the minor parent's siblings (including half and step) and the parents of any of these children living in the home. Supplemental Security Income (SSI) recipients and children receiving kinship care subsidy or foster care payments may not be included in the filing unit.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), amended LR 26:349 (February 2000), amended by the Department of Children and Family Services, Economic Stability, LR 45:1439 (October 2019).

##### **§1205. Application Time Limit**

A. The time limit for disposition of the application is 30 days from the date on which the signed application is received by the department. The applicant shall have benefits available through Electronic Benefits Transfer (EBT) or notified that he has been found ineligible for a grant by the thirtieth day, unless an unavoidable delay has occurred.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), amended by the Department of Children and Family Services, Economic Stability, LR 45:1439 (October 2019).

##### **§1207. Certification Period and Reapplication**

A. Certification periods of a set duration will be assigned. In order to continue to receive benefits, the household must timely reapply and be determined eligible. In the month preceding the final month of certification, a notice of expiration will be provided to the household. The notice shall inform the household that failure to timely reapply will result in closure and include the right to a fair hearing. Also, if during the reapplication process, a change is reported which results in a determination of ineligibility or a reduction in benefits, this change will be made effective the following month.

B. The department will require an official reapplication for benefits and prorate benefits from the date of application following a period of ineligibility.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B., 42 U.S.C. 608, et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), amended LR 28:1598 (July 2002), LR 32:263 (February 2006), amended by the Department of Children and Family Services, Economic Stability, LR 45:1439 (October 2019).

##### **§1209. Notices of Adverse Actions**

A. A notice of adverse action shall be sent at least 13 days prior to taking action to reduce or terminate benefits. In some circumstances advance notice is not required. A concurrent notice shall be sent to the client at the time of action in the following situations:

1. - 13. ...

14. benefits are reduced or terminated effective the month following the simplified report month;

15. mass changes.

AUTHORITY NOTE: Promulgated in accordance with 42 USC 601 et seq., R.S. 36:474, R.S. 46:231.1(B), R.S. 46:237, Act 58, 2003 Reg. Session and Act 16, and 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), amended LR 26:349 (February 2000), LR 28:2565 (December 2002), LR 30:493 (March 2004), LR 32:1911 (October 2006), amended by the Department of Children and Family Services, LR 44:443 (March 2018), amended by the Department of Children and Family Services, Economic Stability, LR 45:1439 (October 2019).

## **Subchapter B. Conditions of Eligibility**

### **§1249. Drug Screening, Testing, Education and Rehabilitation Program**

A. ...

B. Screening and Referral Process. All adult applicants for and recipients of FITAP will be screened for the use of or dependency on illegal drugs at initial application and redetermination of eligibility using a recognized and standardized drug abuse screening test.

1. When the screening process indicates that there is a reason to suspect that a recipient is using or dependent on illegal drugs, or when there is other evidence that a recipient is using or dependent on illegal drugs, the caseworker will refer the recipient to the Department of Health and Hospitals, Office of Behavioral Health (OBH) to undergo a formal substance abuse assessment which may include urine testing. The referral will include a copy of the screening form and a copy of the release of information form.

B.2. - F. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2453 (December 1999), amended LR 30:495 (March 2004), amended by the Department of Children and Family Services, LR 39:1414 (June 2013), amended by the Department of Children and Family Services, Economic Stability, LR 45:1440 (October 2019).

### **§1257. Reporting Requirements**

A. Effective February 1, 2004, a FITAP household that is not included in a SNAP Simplified reporting household shall report any change that affects eligibility or the amount of monthly benefits. The specified dollar amounts of change for earned or unearned income that trigger a report shall be adjusted annually in accordance with 7 CFR §273.12(a)(1)(i) (D). Changes shall be reported within 10 days of the knowledge of the change.

B. A FITAP household that is included in a SNAP Simplified Reporting household is subject to the simplified household reporting requirements in accordance with §2013 and must report if the only eligible child moves out of the home or if any eligible child is certified for Foster Care.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231 et seq. 7 CFR Part 273, 42 U.S.C. 608, et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:522 (March 2002), amended LR 30:1486 (July 2004), LR 32:264 (February 2006), amended by the Department of Children and Family Services, LR 36:2524 (November 2010), amended by the Department of Children and Family Services, Economic Stability, LR 45:1440 (October 2019).

## **Chapter 15. General Program Administration**

### **Subchapter B. Recovery**

#### **§1503. Recovery of Overpayments**

A. All FITAP overpayments shall be subject to collection either by recoupment or recovery with the exception of inadvertent household error claims and administrative error claims of less than \$125 for nonparticipating households.

B. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 10:1030 (December 1984), amended by the Department of Social

Services, Office of Family Support, LR 24:353 (February 1998), LR 27:428 (March 2001), LR 34:2678 (December 2008), amended by the Department of Children and Family Services, LR 39:2192 (August 2013), amended by the Department of Children and Family Services, Economic Stability, LR 45:1440 (October 2019).

### **Subpart 3. Supplemental Nutritional Assistance Program (SNAP)**

## **Chapter 19. Certification of Eligible Households**

### **Subchapter E. Students**

#### **§1935. Student Provisions (Effective March 1, 2006)**

A. An individual enrolled at least half-time (as defined by the institution) in an institution of higher education is considered a student. A student is ineligible to receive SNAP benefits unless the individual meets at least one of the following conditions:

1. under age 18 or over age 49;
2. physically or mentally unfit;
3. receiving FITAP benefits;
4. employed an average of at least 20 hours per week, and be paid for such employment, or if self-employed, employed for an average of at least 20 hours per week and receives weekly earnings at least equal to the federal minimum hourly wage multiplied by 20 hours;
5. participating in a state or federally financed work-study program during the regular school year;
6. participating in an on-the-job training program;
7. responsible for the care of a dependent household member who is:

a. under age 6; or

b. age 6 or over but under age 12 and adequate child care is not available;

8. is a single parent who is a full-time student (as defined by the institution) and who is responsible for the care of a dependent child under age 12, regardless of the availability of adequate child care;

9. assigned to or placed in an institution of higher education through or in compliance with the requirements of one of the following:

a. the work program under Title IV of the Social Security Act, which is the Strategies to Empower People (STEP) Program;

b. the Workforce Innovation and Opportunity Act of 2015;

c. a SNAP employment and training program subject to the condition that the course or program of study is part of a program of career and technical education as defined in section 3 of the Carl D Perkins Career and Technical Education Act of 2006 (20 U.S.C 2302) designed to be completed in not more than four years at an institution of higher education or is limited to remedial course, basic adult education, literacy, or English as a second language;

d. a program under Section 236 of the Trade Act of 1974; or

e. a state or local government employment and training program.

B. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 273.5., P.L. 107-171, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:131 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 24:1783 (September 1998), LR 32:1616 (September 2006), amended by the Department of Children and Family Services, LR 36:2528 (November 2010),



amended by the Department of Children and Family Services, Economic Stability, LR 45:1440 (October 2019).

## **Subchapter I. Income and Deductions**

### **§1957. Income Eligibility and Benefit Level**

A. For households containing a member age 60 or over or who receives SSI under Title XVI of the Social Security Act or disability and blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act, income eligibility shall be based on net income.

B. For all other households, income eligibility shall be based on gross income.

C. All eligible one and two-person households shall receive a minimum monthly allotment of 8 percent of the thrifty food plan for one person except when proration of initial month's benefits occurs. No issuance shall be made for the initial month for allotments less than \$10 due to proration. For those eligible households with three or more members, which are entitled to no benefits except for the initial month due to proration, the eligibility worker shall deny the household's participation, on the grounds that its net income exceeds the level below which benefits are issued.

D. The level of benefits for all eligible households shall be based upon net monthly income.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:10 (January 1982), amended by the Department of Social Services, Office of Family Support, LR 35:689 (April 2009), amended by the Department of Children and Family Services, Economic Stability, LR 45:1441 (October 2019).

### **§1968. Homeless Shelter Deduction**

A. Homeless households in which all members are homeless individuals that are not receiving free shelter throughout the month and do not claim an excess shelter deduction shall be allowed the standard homeless shelter deduction. The value of the deduction is indexed based on inflation.

AUTHORITY NOTE: Promulgated in accordance with Section 5(e)(6)(D) of the Food and Nutrition Act of 2008, 7 USC §2014(e)(6)(D).

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability, LR 45:1441 (October 2019).

## **Subchapter J. Determining Household Eligibility and Benefit Levels**

### **§1987. Categorical Eligibility for Certain Recipients**

A. Households Considered Categorically Eligible

1. Households in which all members are recipients of benefits from the FITAP, STEP, KCSP, and/or SSI, shall be considered categorically eligible for SNAP.

A.2. - D. ...

E. Households who receive a non-cash TANF/MOE funded benefit or service may be considered broad-based categorically eligible for Supplemental Nutrition Assistance Program (SNAP).

1. A household shall not be considered broad-based categorically eligible if:

a. any member of that household is disqualified for an intentional program violation;

b. the household is disqualified for failure to comply with the work registration requirements.

2. The following persons shall not be considered a member of a household when determining broad-based categorical eligibility:

a. an ineligible alien;

b. an ineligible student;

c. an institutionalized person;

d. an individual who is disqualified for failure to comply with the work registration requirements;

e. an individual who is disqualified for failure to provide or apply for a social security number;

f. an individual who is on strike.

3. Households which are broad-based categorically eligible are considered to have met the resource eligibility factor without additional verification.

4. Broad-based categorically eligible households must meet all Supplemental Nutrition Assistance Program eligibility factors except as outlined above.

5. Benefits for broad-based categorically eligible households shall be based on net income as for any other household.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:28196 et seq., 7 CFR 271, 272, 273.10, and 274, F.R. 56:63612-63613, P.L. 104-193, 7 CFR 273.2(j)(2)(xi), Act 58, 2003 Reg. Session, 7 CFR 273.2, (j), and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:90 (February 1987), amended by the Department of Social Services, Office of Family Support, LR 18:1267 (November 1992), LR 24:1783 (September 1998), LR 26:349 (February 2000), LR 27:867 (June 2001), LR 27:1934 (November 2001), LR 30:495 (March 2004), amended by the Department of Children and Family Services, LR 36:2531 (November 2010), LR 40:1312 (July 2014), LR 44:444 (March 2018), amended by the Department of Children and Family Services, Economic Stability, LR 45:1441 (October 2019).

### **§1991. Initial Month's Benefits**

A. *Effective 10/1/96 by ER* Initial month means either the first month for which an allotment is issued to a household, or the first month for which an allotment is issued to a household following any period during which the household was not certified for participation in SNAP.

B. A household's benefit level for the initial month of certification will be based on the day of the month it applies for benefits. Using a 30-day calendar or fiscal month, households shall receive benefits prorated from the day of application to the end of the month. A household applying on the thirty-first of a month will be treated as though they applied on the thirtieth of the month.

C. Households who have applied for initial month's benefits after the fifteenth of the month, completed the application, provided all required verification, and have been determined eligible to receive benefits for the initial month of application and the next subsequent month shall receive their prorated allotment for the initial month of application and their first full month's allotment at the same time. In determining initial month benefits, the result of the proration will be rounded down to the nearest lower dollar increment. If the calculation results in an allotment of less than \$10, then no benefits will be issued.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., F.R. 47:55463 et seq. and 47:55903 et seq., 7 CFR 273.10, P.L. 103-66, P.L. 104-193, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:10

(January 1982), amended LR 9:131 (March 1983), amended by the Department of Social Services, Office of Family Support, LR 21:188 (February 1995), LR 23:83 (January 1997), amended by the Department of Children and Family Services, LR 36:2532 (November 2010), amended by the Department of Children and Family Services, Economic Stability, LR 45:1441 (October 2019).

#### **Subchapter P. Recovery of Over-Issued SNAP Benefits**

##### **§2005. Claims against Households**

A. All adult household members are jointly and severally liable for the value of any over-issuance of benefits to the household. This is true regardless of whether the over-issuance resulted from inadvertent error, an administrative error or an intentional program violation.

B. Action will not be taken to recover claims which are less than \$125 for inadvertent household error or an administrative error for nonparticipating households.

C. This threshold does not apply to claims for participating households, to claims which are determined to be the result of intentional program violation, or to errors which are discovered in a quality control review.

AUTHORITY NOTE: Promulgated in accordance with F.R. 48:6837 et seq., P.L. 97-35, 97-253, 101-624 §1746, and 102-237 §911, 7 CFR 272.273, 276 and 277, P.L. 103-66, P.L. 104-193, P.L. 104-134, 7 CFR 3 Subpart B, and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:323 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 18:1133 (October 1992), LR 20:899 (August 1994), LR 21:189 (February 1995), LR 22:584 (July 1996), LR 23:83 (January 1997), LR 23:1710 (December 1997), LR 24:2326 (December 1998), LR 27:1017 (July 2001), amended by the Department of Children and Family Services, LR 36:2533 (November 2010), LR 39:2192 (August 2013), amended by the Department of Children and Family Services, Economic Stability, LR 45:1442 (October 2019).

#### **Subpart 13. Kinship Care Subsidy Program (KCSP)**

##### **Chapter 53. Application, Eligibility, and Furnishing Assistance**

##### **Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance**

##### **§5301. Application**

A. All individuals applying for Kinship Care Subsidy Program (KCSP) shall be considered applicants for assistance and shall file a written and signed application form under a penalty of perjury. The date the application form is received by the department shall be considered the date of application. If an application is received after 4:30 p.m. central time, the following workday shall be considered the date of application. If determined eligible, benefits shall be prorated from the date of application. Applicants for KCSP must apply for benefits through Family Independence Temporary Assistance Program (FITAP).

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000), amended by the Department of Children and Family Services, Economic Stability, LR 45:1442 (October 2019).

##### **§5305. Certification Period and Reapplication**

A. Certification periods of a set duration will be assigned. In order to continue to receive benefits, the household must timely reapply and be determined eligible. In the month preceding the final month of certification, a notice of expiration will be provided to the household. The

notice shall inform the household that failure to timely reapply will result in closure and include the right to a fair hearing. Also, if during the reapplication process, a change is reported which results in a determination of ineligibility or a reduction in benefits, this change will be made effective the following month.

B. The department will require an official reapplication for benefits and prorate benefits from the date of application following a period of ineligibility.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237.42 U.S.C 608, et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:351 (February 2000), amended LR 28:1599 (July 2002), LR 32:264 (February 2006), amended by the Department of Children and Family Services, Economic Stability, LR 45:1442 (October 2019).

#### **Subchapter B. Conditions of Eligibility**

##### **§5323. Citizenship**

A. Each KCSP recipient must be a United States Citizen, a non-citizen national, or a qualified alien. A non-citizen national is a person born in an outlying possession of the United States (American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals. A qualified alien is:

1. - 7. ...

8. an alien who has been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien if the spouse or parent consented to, or acquiesced in, such battery or cruelty. The individual who has been battered or subjected to extreme cruelty must no longer reside in the same household with the individual who committed the battery or cruelty. The agency must also determine that a substantial connection exists between such battery or cruelty and the need for the benefits to be provided. The alien must have been approved or have a petition pending which contains evidence sufficient to establish:

a. the status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of §204(a)(1)(A) of the Immigration and Nationality Act (INA); or

b. the classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of the INA; or

c. cancellation of removal under Section 1229b of the INA (as in effect prior to April 1, 1997); or

d. the status as a spouse or child of a United States citizen pursuant to clause (i) of §204(a)(1)(A) of the INA, or classification pursuant to clause (i) of section 204(a)(1)(B) of the INA; or

e. cancellation of removal pursuant to Section 1229b(b)(2) of the INA;

9. an alien child of a battered parent or the alien parent of a battered child as described in §1223A.8;

10. an alien who is a victim of a severe form of trafficking in persons, or effective May 1, 2006, an eligible relative of a victim of a severe form of trafficking in persons; or

11. an Iraqi or Afghan immigrant who has been granted Special Immigrant Visa (SIV) status.

B. - B.8. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, P.L. 106-386, Act 16, 2005 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:352 (February 2000), amended LR 27:2264 (December 2001), LR 28:1600 (July 2002), LR 32:1913 (October 2006), amended by the Department of Children and Family Services, Economic Stability, LR 45:1442 (October 2019).

#### **§5329. Income**

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

1. - 31. ...

32. any payments other than wages received as a result of the Mississippi Canyon Well Incident in the Gulf of Mexico on April 20, 2010; or

33. grant funded research payments.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1.B, R.S. 46:237, and P.L. 108-447, Act 16, 2005 Reg. Session, 7 CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 26:353 (February 2000), amended LR 26:2832 (December 2000), LR 31:2958 (November 2005), LR 32:1617 (September 2006), LR 32:1913 (October 2006), repromulgated LR 32:2098 (November 2006), amended by the Department of Children and Family Services, LR 36:2537 (November 2010), LR 38:1390 (June 2012), amended by the Department of Children and Family Services, Economic Stability, LR 45:1443 (October 2019).

#### **§5347. Reporting Changes**

A. Effective February 1, 2004, a KCSP household that is not included in a SNAP Simplified Reporting household shall report any change that affects eligibility. The specified dollar amounts of change for earned or unearned income that trigger a report shall be adjusted annually in accordance with 7 CFR §273.12(a)(1)(i) (D). Changes shall be reported within 10 days of the knowledge of the change.

B. A KCSP household that is included in a SNAP Simplified Reporting household is subject to the simplified household reporting requirements in accordance with LAC 67:III.2013 and must report if the only eligible child moves out of the home or if any eligible child is certified for Foster Care.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474, R.S. 46:231 et seq., 7 CFR Part 273, 42 U.S.C., et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 28:2565 (December 2002), amended LR 30:1487 (July 2004), LR 32:264 (February 2006), amended by the Department of Children and Family Services, LR 36:2537 (November 2010), amended by the Department of Children and Family Services, Economic Stability, LR 45:1443 (October 2019).

#### **Subchapter C. Recovery**

#### **§5383. Recovery of Overpayments**

A. All KCSP overpayments shall be subject to collection either by recoupment or recovery with the exception of inadvertent household error claims and administrative error claims of less than \$125 for nonparticipating households.

B. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 27:429 (March 2001), amended LR: 34:2678 (December 2008), amended by the Department for Children and Family Services, LR 39:2193 (August 2013), amended by the Department of Children and Family Services, Economic Stability, LR 45:1443 (October 2019).

Marketa Garner Walters  
Secretary

1910#056

## **RULE**

### **Board of Elementary and Secondary Education**

Administrative Board Operations and Programs  
(LAC 28:I.501, 503, 721, and Chapters 21-31)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28:I. Provisions governing the board contained in the *Louisiana Administrative Code*, Title 28, Part I, BESE/8(g) Operations (BESE Code) are amended, adopted, or repealed as a part of regular compliance and review of the regulations to identify necessary updates, technical edits, and revisions as a result of changes in practice, procedure, and compliance with legislation. The revisions include:

- clarification of language pertaining to Nonpublic School Council membership;
- removal of repetitive language that can already be found in other areas of administrative and statutory law;
- the addition of *Louisiana Administrative Code* and *Louisiana Revised Statute* citations for clarification, preciseness, and to prevent conflicts with state constitutional and statutory law;
- removal of outdated and non-applicable language;
- streamlining of the regulations for ease of use and understanding; and
- other technical edits such as punctuation, changing "shall" to "will" for compliance with Office of the State Register guidelines, updating codification, and other housekeeping measures.

This Rule is hereby adopted on the day of promulgation.

#### **Title 28**

#### **EDUCATION**

#### **Part I. BESE/8(g) Operations**

#### **Subpart 1. Board of Elementary and Secondary Education**

#### **Chapter 5. Organization**

#### **§501. Committees**

A. - B.2.b.i. ...

3. Educator Effectiveness Committee. The following are examples of issues that will be considered by the Educator Effectiveness Committee.

a. - a.i.(b). ...

(c). records reviews for certification denial or revocation in accordance with LAC 28:CXXXI.Chapter 9, Bulletin 746;

(i). - (iii). Repealed.

3.a.ii. - 4.b.i. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:415 (March 2008), amended LR 35:223 (February 2009), LR 35:1874 (September 2009), LR 36:2851 (December 2010), LR 37:2139 (July 2011), LR 38:3152 (December 2012), repromulgated LR 39:308 (February 2013), amended LR 39:3263 (December 2013), LR 45:1443 (October 2019).

### **§503. Advisory Councils**

A. - C.I.c.iv. ...

#### **2. Nonpublic School Council:**

a. ...

b. membership—eleven members, one nonpublic school administrator recommended by each board member, representing approved nonpublic schools;

A.2.c. - G.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:6(A)(15), 17:11, 17:24.4, and 42:19.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:416 (March 2008), amended LR 35:1874 (September 2009), LR 36:2851 (December 2010), LR 37:2140 (July 2011), LR 38:772 (March 2012), LR 38:3152 (December 2012), LR 39:3263 (December 2013), LR 42:563 (April 2016), LR 44:744 (April 2018), LR 44:1995 (November 2018), LR 45:1444 (October 2019).

## **Chapter 7. Operations**

### **§721. Records Retention and Destruction**

A. All records of the board are maintained and/or destroyed in accordance with the board's record retention policy and records retention schedule on file at the office of the Secretary of State, Division of Archives, Records Management, and History in accordance with LAC 4:XVII and R.S. 44:36 and 411.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and 44:36.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008), amended LR 45:1444 (October 2019).

### **Subpart 3. Louisiana Quality Education Support Fund—8(g) Program**

## **Chapter 21. Legislation and Purpose**

### **§2101. Introduction**

**[Formerly LAC 28:XCIII.101]**

A. Permanent Trust Fund. The Kevin P. Reilly, Sr. Louisiana education quality trust fund (permanent trust fund), effective January 1, 1987, is a trust fund for education, established by La. Const. art. VII, §10.1 and R.S. 17:3801 et seq.

1. - 7. Repealed.

#### **B. Support Fund**

1. The Louisiana quality education support fund (support fund) was created in the Louisiana State Treasury to receive and hold interest earnings from the permanent trust fund, and is distributed by the legislature as follows:

a. 50 percent of the money appropriated by the legislature for this fund is allocated to the Board of Elementary and Secondary Education (BESE) for the enhancement of elementary and secondary educational programs; and

b. 50 percent of money appropriated by the legislature for this fund is allocated to the Board of Regents for the enhancement of higher education.

2. In accordance with La. Const. art. VII, §10.1, in order to accomplish the goal of enhancement, BESE allocates money from the support fund to:

a. provide compensation to city or parish school board professional instructional employees;

b. insure an adequate supply of superior textbooks, library books, equipment, and other instructional materials;

c. fund exemplary programs in elementary and secondary schools designed to improve elementary and secondary student academic achievement or vocational-technical skill;

d. fund carefully defined research efforts, including pilot programs, designed to improve elementary and secondary student academic achievement;

e. fund school remediation and preschool programs;

f. fund the teaching of foreign languages in elementary and secondary schools; and

g. fund an adequate supply of teachers by providing scholarships or stipends to prospective teachers in academic or vocational-technical areas where there is a critical teacher shortage.

C. This Subpart contains policies adopted by BESE to govern activities for the distribution of money from the support fund for the 8(g) program to enhance elementary and secondary educational programs.

AUTHORITY NOTE: Promulgated in accordance with La. Const. article VII, §10.1 and R.S. 17:6 and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3141 (December 2012), amended LR 45:1444 (October 2019).

### **§2103. Definitions**

**[Formerly LAC 28:XCIII.103]**

A. The following terms apply to this Subpart.

*8(g) Advisory Council*—an advisory council to BESE, which operates in accordance with LAC 28:I.503.C.1.

*8(g) Program and Budget*—consists of broad classifications of funding methods and/or programs and the total amount of money the board proposes to fund each category.

*8(g) Program Guidelines*—a manual produced by BESE for guidance, which includes examples pertaining to the 8(g) program, found in the applicant submission portal.

*8(g) Support Fund (Louisiana Quality Education Support Fund)*—Repealed.

*Administrative Costs*—Repealed.

*Applicant*—an eligible agency which submits a proposal for funding in response to a request for projects by BESE.

*Approved Nonpublic School*—Repealed.

*Board*—Repealed.

*Board* or *BESE*—the state Board of Elementary and Secondary Education.

*Budgets*—Repealed.

*Continuing Project*—a project that covers a time period of at least one, but no more than three, fiscal years.

*Equipment*—Repealed.

*Exemplary Program*—Repealed.

a. - d. Repealed.

*Excess Costs*—Repealed.

*Fiscal Year (FY)*—beginning July 1 and ending June 30.

*Foreign Language Instruction*—academic instruction in any language other than English, not including instruction in English as a second language.

*Library Books*—Repealed.

*Louisiana Education Quality Trust Fund* (Permanent Trust Fund)—Repealed.

*Other Instructional Materials*—materials used in the direct instruction of students which are not included under the annual per-student allocation for "materials of instruction" through the Department of Education. [See the 8(g) program guidelines for a list of examples.]

\* \* \*

*Priorities*—Repealed.

*Project/Application*—Repealed.

*Project/Application Deadline/Timeline*—Repealed.

*Projects*—Repealed.

*Project Year/Term*—Repealed.

*Recipient*—Repealed.

*Remediation Program*—a program that teaches an educational skill which is normally taught at a lower grade level. [See the 8(g) program guidelines for a list of examples.]

*Request for Projects*—Repealed.

*Research*—an investigation of conditions existing within specific school populations.

*Scholarships*—Repealed.

*Stipends*—Repealed.

*Superior Textbooks*—Repealed.

*Supplant/Displace/Replace*—Repealed.

*Supplant, Displace, or Replace*—legally-prohibited types of expenditures for support funds. For the purpose of this Subpart, *supplant*, *displace*, and *replace* refer to the process whereby support funds are utilized in lieu of funds available from another source or 8(g) funds are utilized to fund activities previously funded by another source.

*Support Fund* or *Louisiana Quality Education Support Fund*—a fund in the Louisiana State Treasury used for educational enhancements in accordance with La. Const. art. VII, §10.1, R.S. 17:3801 et seq., and §2101 of this Chapter.

*Technology*—Repealed.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6(A)(10) and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3142 (December 2012), amended LR 44:1997 (November 2018), LR 45:1444 (October 2019).

## **Chapter 23. 8(g) Advisory Council**

### **§2301. 8(g) Advisory Council—Composition, Duties and Responsibilities**

**[Formerly §2303 and LAC 28:XCIII.301]**

A. The composition, duties, and responsibilities of the 8(g) Advisory Council are in accordance with LAC 28:I.503.C.1.

1. - 4. Repealed.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6(A)(10) and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3143 (December 2012), amended LR 44:1997 (November 2018), LR 45:1445 (October 2019).

### **§2303. Composition of the 8(g) Advisory Council**

**[Formerly LAC 28:XCIII.303]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6(A)(10) and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3143 (December 2012), repealed LR 45:1445 (October 2019).

## **Chapter 25. Public Participation**

### **§2501. Public Hearings—Operations.**

#### **Recommendations, and Deadlines**

**[Formerly §§2503, 2505, and 2507 and LAC 28:XCIII.501]**

A. Expenditure of Support Fund Monies. The board will conduct at least one hearing annually to receive public input, ideas, and suggestions for programs and objectives for the expenditure of support fund money for elementary and secondary schools.

B. Conduction of Public Hearings. Any public hearing being conducted in accordance with §2501 of this Chapter will be in accordance with Chapter 7 of this Part.

C. Deadline for Public Hearings. Public hearings, in accordance with this Section, must be completed no later than October 31 of each year.

D. Recommendations made at Public Hearings. Recommendations made at any public hearing in accordance with this Section will be:

1. compiled by BESE staff for review by the board at the next board meeting; and

2. available to the 8(g) Advisory Council and the public no later than December 31 of the same year the public hearing(s) is held.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6(A)(10) and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3143 (December 2012), amended LR 45:1445 (October 2019).

### **§2503. Public Notice of Hearings**

**[Formerly LAC 28:XCIII.503]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6(A)(10) and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3143 (December 2012), repealed LR 45:1445 (October 2019).

### **§2505. Deadline for Completion of Public Hearings**

**[Formerly LAC 28:XCIII.505]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6(A)(10) and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3143 (December 2012), repealed LR 45:1445 (October 2019).

### **§2507. Compilation of Recommendations made at Public Hearings**

**[Formerly LAC 28:XCIII.507]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6(A)(10) and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3143 (December 2012), repealed LR 45:1445 (October 2019).

## **Chapter 27. 8(g) Program and Budget**

### **Subchapter A. Establishment**

#### **§2701. Establishment of Annual 8(g) Program and Budget; Priorities**

**[Formerly LAC 28:XCIII.701]**

A. Every fiscal year, the board will establish the 8(g) program and budget for expenditure of support fund monies which are anticipated to become available in the following fiscal year.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6, 17:7.3, and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3144 (December 2012), amended LR 45:1446 (October 2019).

### **Subchapter B. Support Fund Priorities and Eligibility**

#### **§2703. Annual Funding Priorities and Eligibility**

**[Formerly §§2713, 2715, 2717, 2721, and LAC 28:XCIII.2703]**

A. Annual Support Fund Priorities. In accordance with La. Const. art. VII, §10.1 and R.S. 17:3801 et seq., the board:

1. will establish support fund priorities on an annual basis for the disbursement of funds; and
2. may specify types of educational programs or projects that will receive preference for funding.
3. - 7. Repealed.

B. Project Funding. Eligibility criteria will be in accordance with La. Const. art. VII, §10.1(D)(2) and R.S. 17:3801(D). (See also §2101 of this Part for a list of authorized educational programs.)

C. Applicants. The following are applicants that are eligible to apply for an award of support fund monies:

1. any public or approved nonpublic elementary/secondary school system located within the state of Louisiana. Applications made on behalf of a specific classroom teacher, a department within a school, a group of schools, or on a system-wide basis shall be eligible for submission only through the approved recipient who shall serve as fiscal agent;

2. any approved elementary or secondary school located within the state of Louisiana that is not part of a school system, provided that the school has been certified by the state Board of Elementary and Secondary Education to meet all applicable standards and is approved for state funding under *Brumfield vs. Dodd*. Applications made on behalf of a specific classroom, teacher, or department, or an entire school shall be eligible for submission only through the approved recipient who shall serve as fiscal agent;

3. private organizations/individuals will only be eligible to submit an application through an approved recipient who shall serve as fiscal agent;

4. state agencies shall be eligible for funding for noncompetitive statewide projects, as allocated by BESE.

D. Eligibility Determination. An application for support funds must demonstrate that the project:

1. complies with the provisions of this Subpart; and
2. conforms to the priorities and objectives delineated in the annual 8(g) program and budget adopted by the board for that specific funding period.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6, 17:7.3, and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3145 (December 2012), amended LR 45:1446 (October 2019).

### **Subchapter C. Allocation of Support Fund Monies**

#### **§2705. Allocation of Support Fund Money for Statewide Purposes**

**[Formerly LAC 28:XCIII.705]**

A. The board, in its sole discretion, may:

1. allot a specific amount or a percentage of support fund monies for expenditures necessary to implement specific statewide educational projects mandated by the board; and

2. issue general or specific requests for projects for the development and/or implementation of any statewide educational project.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6 and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3144 (December 2012), amended LR 45:1446 (October 2019).

#### **§2707. Support Fund Set-Aside Money**

**[Formerly LAC 28:XCIII.707]**

A. Program Administration. The board will determine the percentage of anticipated support fund revenues which will be set aside to pay for costs associated with the administration of the 8(g) program in accordance with R.S. 17:3802. Such administrative set-aside will not exceed more than 3 percent of the average annual amount of actual expenditures by each board for the most recent 3 previous fiscal years.

1. - 7. Repealed.

B. Program Proposal Review and Evaluation. Costs attributable to BESE regarding the use of external peer review consultants for the purpose of review evaluation and assessment of program proposals are recognized as costs appropriately borne by respective support fund programs and will be paid in accordance with R.S. 17:3802.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6, 17:7.3, and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3144 (December 2012), amended LR 45:1446 (October 2019).

#### **§2709. 8(g) Program and Budget Summary**

**[Formerly LAC 28:XCIII.709]**

A. Annual 8(g) Program and Budget Summary. A summary of the adoption of the annual 8(g) program and budget:

1. will be posted on the BESE website;
2. contains educational objectives, broad classifications of funding methods, and/or programs to receive budgetary priorities, including the proposed allocation; and
3. includes, but not be limited to, the following:
  - a. the amount set aside for administrative purposes;
  - b. an explanation of specific priority(ies), if any, established by the board and the dollar amount allocated for each program; and
  - c. any additional information relative to board actions that have a direct bearing upon the eventual awarding of support fund monies to eligible recipients.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6(A)(10) and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3144 (December 2012), amended LR 44:1997 (November 2018), LR 45:1446 (October 2019).

**§2711. Allocations of the Board to be Reported to the Governor and the Legislature**  
**[Formerly LAC 28:XCIII.711]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with La. Const. Art. VII, § 10.1, R.S. 17:7.3, and R.S. 17:3801.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3145 (December 2012), repealed LR 45:1447 (October 2019).

**§2713. Eligibility Criteria**  
**[Formerly LAC 28:XCIII.713]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6, 17:7.3, and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3145 (December 2012), repealed LR 45:1447 (October 2019).

**§2715. Eligible Applicants**  
**[Formerly LAC 28:XCIII.715]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6(A)(10) and 3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3145 (December 2012), repealed LR 45:1447 (October 2019).

**Subchapter D. Application for Support Fund Monies**

**§2717. Application for Support Fund Monies**  
**[Formerly LAC 28:XCIII.717]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with La. Const. Art. VII, § 10.1, R.S. 17:7.3, and R.S. 17:3801.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3145 (December 2012), repealed LR 45:1447 (October 2019).

**§2719. Application for Support Fund Monies—Time Frames**  
**[Formerly LAC 28:XCIII.719]**

A. Application Submittal Time Frame. Applications for support fund monies may be submitted by eligible applicants for the following periods of time:

1. for periods of less than one fiscal year;
2. for periods which correspond with the beginning and ending dates of one fiscal year. No projects will be funded for a period which begins in one fiscal year and ends in a different fiscal year; or
3. for periods of two or more fiscal years.

B. Continuing Projects. The maximum number of years an applicant is eligible to receive funding for a continuing project is three.

1. - 3. Repealed.

C. No project will be funded for more than one fiscal year. Funding for subsequent years contained in the project proposal is subject to reconsideration by the board in each subsequent fiscal year. The award of support fund monies will, in all cases, be guaranteed for one fiscal year only.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6(A)(10) and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3145 (December 2012), amended LR 45:1447 (October 2019).

**Subchapter E. Evaluation of Support Fund Applications**

**§2721. Determination of Eligibility**  
**[Formerly LAC 28:XCIII.721]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with La. Const. Art. VII, § 10.1, R.S. 17:7.3, and 17:3801.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3145 (December 2012), repealed LR 45:1447 (October 2019).

**§2723. Award of Support Fund Grants**  
**[Formerly LAC 28:XCIII.723]**

A. Funding. Funding determinations will be finalized by the board for projects to be funded as of July 1.

B. Notification. Applicants will be notified of the disposition of projects following approval by the board.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6(A)(10) and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3146 (December 2012), amended LR 45:1447 (October 2019).

**§2725. Instructional Materials**  
**[Formerly LAC 28:XCIII.725]**

A. Projects which anticipate across-the-board increases in the per-student allocation for instructional materials are not eligible for funding in this category, since such allocations will be addressed by the board on a statewide basis.

B. An example of projects eligible for support funds in this category can be viewed in the 8(g) program guidelines.

1. - 4.f. Repealed.

C. The project must include the:

1. number and grade levels of students who will have access to the items purchased;
2. school site where items purchased will be housed; and
3. name and title of the school employee responsible for proper usage of the items purchased.

D. Whenever purchases are made for the use of a specific population within a school, the project must:

1. name the specific population; and
2. illustrate the reasons for selecting the specific population to receive support fund monies.

E. - F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6(A)(10) and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3146 (December 2012), amended LR 45:1447 (October 2019).

**§2727. Exemplary Programs in Elementary and Secondary Schools**  
**[Formerly LAC 28:XCIII.727]**

A. - B. ...

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6(A)(10) and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3146 (December 2012), repromulgated LR 45:1447 (October 2019).

**§2729. Pilot Programs—Research and Student Academic Achievement**  
**[Formerly LAC 28:XCIII.729]**

A. An eligible applicant may receive funding for a program which is limited to educational research.

1. - 2. Repealed.

B. The following requirements apply to an applicant seeking funds for a "pilot program" and include, but are not limited to, the following. The applicant must:

1. incorporate a research component within the pilot program to verify that program activities result in improved academic performance; or

2. include documentation that legitimate research available in the literature already demonstrates that the activities to be implemented in the pilot program have resulted in improved student academic performance.

3. - 4. Repealed.

C. The following requirements apply to research funded with support fund money and include, but are not limited to, the following. There must be a:

1. guarantee that the rights of participants will be protected throughout research activities; and

a. - b. Repealed.

2. correlation between anticipated results of the research and improved elementary and secondary student academic performance.

D. Requirements applicable to pilot programs using support fund money include, but are not limited to, the following. The program must include:

1. a research component; or

2. documentation that the design of the pilot program is based upon validated research findings; and

3. there must be a guarantee that the rights of participants in any research component of the pilot program will be protected throughout the program period.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6(A)(10) and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3147 (December 2012), amended LR 45:1447 (October 2019).

**§2731. School Remediation and Preschool Programs**  
**[Formerly §2733 and LAC 28:XCIII.731]**

A. School Remediation Programs. School remediation programs must:

1. be designed for a specific target population that is clearly identified;

2. substantiate, by provision of educational performance data acceptable to the board, the need of the target population;

3. included in the proposal the location in which the services will be provided; and

4. if applicable, include in the proposal the level of financial or personnel support that will be received and the source of assistance if it is not from the applicant.

B. Preschool Programs. Preschool programs must:

1. be designed for a specific target population that is clearly identified;

2. substantiate, by test or demographic data acceptable to the board, the need of the target population for preschool instruction; and

3. include the certification that will be required of instructional personnel.

C. - D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6(A)(10) and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3147 (December 2012), amended LR 45:1448 (October 2019).

**§2733. Provisions Relative to Preschool Programs**  
**[Formerly LAC 28:XCIII.733]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6(A)(10) and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3147 (December 2012), repealed LR 45:1448 (October 2019).

**§2735. Foreign Language Instruction Programs**  
**[Formerly LAC 28:XCIII.735]**

A. Eligible projects for foreign language instruction programs in elementary and secondary schools must:

1. be designed for a specific target population that is clearly identified;

2. offer foreign language instruction designed to improve overall academic performance of students; and

3. expand the regular foreign language program offered at the elementary or secondary level in any school system.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6(A)(10) and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3147 (December 2012), amended LR 45:1448 (October 2019).

**Chapter 29. Administration of the Annual 8(g)**  
**Program and Budget**

**§2901. Procedure for Payment to Support Fund**  
**Grantees**

**[Formerly LAC 28:XCIII.901]**

A. Each grantee shall submit a claim for reimbursement, in the form prescribed by the board. Grantees may request reimbursement of expenditures on a monthly basis.

B. Claims for reimbursement must conform to the budget approved by the board for each project.

C. Budget amendments which do not exceed 20 percent of the line item of the budget, or 5 percent of the total budget, may be approved routinely by the board staff. Any line item amendment to an approved budget which exceeds 20 percent of the approved line item must be submitted to the board for its approval.

D. Each grantee shall submit to the board a summary report showing all expenditures during the approved project period no later than 60 days after the close of the project period.

E. Any grantee not in compliance with Subsections C or D of this Section shall be required to repay the grant money with interest upon demand of the board.

F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6(A)(10) and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3147 (December 2012), amended LR 45:1448 (October 2019).

**§2903. Quarterly Report to the Board**  
**[Formerly LAC 28:XCIII.903]**

A. The Department of Education will submit to the board a quarterly report showing all expenditures in each project no later than 30 days after the close of each quarter.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6(A)(10) and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3148 (December 2012), amended LR 45:1448 (October 2019).



## **§2905. Mid-Year Progress**

**[Formerly LAC 28:XCIII.905]**

A. Each recipient of support funds (which is not a public or quasi-public entity that is a budget unit of the state) must provide a written report to the BESE office concerning the use of funds and progress on meeting goals and objectives of the project by March 1.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VII, §10.1 and R.S. 17:6(A)(10) and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3148 (December 2012), amended LR 45:1449 (October 2019).

## **§2907. Final Programmatic Report**

**[Formerly LAC 28:XCIII.907]**

A. Each support fund grantee shall submit a final programmatic report to the board within 60 days after the close of a project period. The final programmatic report must include, but will not be limited to, the following:

1. - 4. ...

5. such other information as may be beneficial to the board in its consideration of the continuation of the project.

B. Support fund recipients who have not submitted a final programmatic report on prior year projects as of September 1 will not receive funds for the current year until the report has been submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3148 (December 2012), amended LR 45:1449 (October 2019).

## **§2909. Monitoring and Evaluation of Approved**

**Support Fund Projects**

**[Formerly LAC 28:XCIII.909]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3148 (December 2012), repealed LR 45:1449 (October 2019).

## **§2911. Annual Report of Each Fiscal Year Support**

**Fund Activities**

**[Formerly LAC 28:XCIII.911]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and 17:3801 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3148 (December 2012), repealed LR 45:1449 (October 2019).

## **Chapter 31. Ownership/Production Rights**

### **§3101. Ownership/Production Rights**

**[Formerly LAC 28:XCIII.1101]**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3148 (December 2012), repealed LR 45:1449 (October 2019).

Shan N. Davis  
Executive Director

1910#020

## **RULE**

### **Board of Elementary and Secondary Education**

Bulletin 111—The Louisiana School, District, and State Accountability System—School Performance Scores; Inclusion in Accountability; and Interests and Opportunities Index Calculations  
(LAC 28:XI.301, 307, 607, and Chapter 8)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28:XI, *Accountability/Testing*, Subpart 1, *Bulletin 111—The Louisiana School, District, and State Accountability System*. Amendments include a "hold harmless" policy. Additionally, if the "interests and opportunities" score results in a lower SPS, the interests and opportunities score will be omitted in the SPS accountability calculation for the 2019-2010 school year. Beginning with the 2019-2020 school year, Louisiana has partnered with school systems to pilot an innovative LEAP 2025 humanities assessment, combining English language arts (ELA) and social studies. In order to gather data to establish a baseline, during the 2019-2020 school year only, the interests and opportunities indicator has been amended for the purposes of principal completion of an online survey (grades K-12) and course enrollment in physical education, visual arts, performing arts, and world languages (grades K-8). This Rule is hereby adopted on the day of promulgation.

### **Title 28**

### **EDUCATION**

#### **Part XI. Accountability/Testing**

#### **Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System**

#### **Chapter 3. School Performance Score Component**

#### **§301. School Performance Score Goal**

**[Formerly LAC 28:LXXXIII.301]**

A. - C.3. ...

\* \* \*

4. For the 2019-2020 school year only, for the purpose of calculating 2020 school performance scores, if the interests and opportunities measure results in a lower SPS than the school would earn using the 2018-2019 weights, then the SPS will be calculated without the interests and opportunities measure using the 2018-2019 weights.

a. - a.ii. Repealed.

5. A combination school (a school with a grade configuration that includes a combination from both categories of schools, K-8 and 9-12), will receive a score from a weighted average of the SPS from the K-8 grades and the SPS from the 9-12 grades.

a. The K-8 SPS will be weighted by the number of students eligible to test during the spring test administration.

b. The 9-12 SPS will be weighted by the sum of:

i. assessment units from students who are initial testers for EOC or high school LEAP 2025 plus the students eligible to test ACT (students with EOC or high school LEAP 2025 and ACT will count only one time);

ii. cohort graduation units from the number of members of the cohort used as the denominator in the graduation index calculation and the graduation rate (Students in cohort will count only one time.).

6. For schools with configurations that include grades 9-11, but do not have a grade 12, the school performance score will consist of the indices available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December 2003), amended LR 31:1512 (July 2005), LR 32:1017 (June 2006), LR 32:2034, 2035 (November 2006), LR 33:424 (March 2007), LR 33:2349 (November 2007), LR 33:2593 (December 2007), LR 34:430 (March 2008), LR 35:639 (April 2009), LR 36:1987 (September 2010), LR 38:3105 (December 2012), LR 39:305 (February 2013), LR 39:1421 (June 2013), LR 39:2441 (September 2013), LR 40:1313 (July 2014), LR 40:2507 (December 2014), LR 41:1481 (August 2015), LR 41:2578 (December 2015), LR 42:2171, 2172 (December 2016), LR 44:447 (March 2018), LR 45:1449 (October 2019).

### **§307. LEAP 2025 Humanities Assessment Pilot**

A. Beginning in the 2019-2020 school year, the LDE will pilot a new LEAP 2025 humanities assessment, combining English language arts (ELA) and social studies. For school systems participating in the pilot, a transition policy will apply to the assessment and progress index calculations for participating grades only.

B. When calculating the ELA assessment index, either the most recent pre-pilot assessment index for ELA or the current year pilot assessment index, whichever yields the higher school performance score, will be used as the ELA component of the overall assessment index.

C. When calculating the social studies assessment index, either the most recent pre-pilot assessment index for social studies or the current year pilot assessment index, whichever yields the higher school performance score, will be used as the social studies component of the overall assessment index.

D. When calculating the ELA progress index, either the most recent pre-pilot progress index for ELA or the current year pilot progress index, whichever yields the higher school performance score, will be used as the ELA component of the overall progress index.

E. In each index calculation defined in Subsections B-D of this Section, the index will be weighted by the current year tested population in order to limit impact of population changes from prior years.

F. The LDE will annually update BESE on the status of the assessment pilot transition beginning December 2019.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:1450 (October 2019).

## **Chapter 6. Inclusion in Accountability**

### **§607. Pairing/Sharing of Schools with Insufficient Test Data [Formerly §521]**

A. - B. ...

C. Any K-2 school with insufficient testing data will be awarded an SPS as defined below.

1. The interests and opportunities index will be calculated as defined in Chapter 8 of this Part based on the K-2 school only.

2. All other indices will be equal to the school to which it is paired.

D. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 30:1445 (July 2004), LR 32:1023 (June 2006), LR 36:1991 (September 2010), LR 38:3108 (December 2012), LR 39:1422 (June 2013), LR 40:1315 (July 2014), LR 44:453 (March 2018), LR 44:1997 (November 2018), LR 45:1450 (October 2019).

## **Chapter 8. Interests and Opportunities Index Calculations**

### **§801. Interests and Opportunities Index Components**

A. The purpose of the interests and opportunities index is to measure the degree to which schools are providing students with access to a well-rounded education, exposing students to diverse areas of learning to develop skills and talents.

B. In the 2019-2020 baseline school year, the interests and opportunities index for K-8 schools will be based in equal parts on survey completion and course enrollment.

K-8 Interests and Opportunities Index Components and Weights		
Component	Weight	Possible Points
Survey Completion	50 percent	75
Course Enrollment	50 percent	75

C. In the 2019-2020 baseline schoolyear, the interests and opportunities index for high schools will be based on survey completion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:1450 (October 2019).

### **§803. Calculating a Survey Completion Score**

A. The LDE will administer an online survey in 2019-2020 to be completed by the principal of every school in order to establish baseline data.

B. The survey will be considered complete only upon approval by the superintendent.

C. Full completion of the survey by the LDE established deadline will result in 75 points for grades K-8 and 150 points for grades 9-12. Failure to complete the survey will result in 0 points.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:1450 (October 2019).

### **§805. Calculating a Course Enrollment Score**

A. The course enrollment component will be calculated for every school enrolling students in grades K-8 based on course enrollment as reported to the LDE.

B. The course enrollment score is defined as the percent of grade K-8 students enrolled in physical education courses, visual arts courses, performing arts courses, and of grades 4-8 students enrolled in world language courses.

C. The LDE will publish a list of course codes for each category.

D. To calculate the numerator, sum the following based on enrollment as of October 1:

1. total grades K-8 students enrolled in physical education and/or health courses;

2. total grades K-8 students enrolled in visual arts courses;
3. total grades K-8 students enrolled in performing arts courses; and
4. total grades K-8 students enrolled in world language courses.

E. To calculate the denominator, sum the following:

1. total grades K-8 students enrolled as of October 1, multiplied by 3; and
2. total grades 4-8 students enrolled as of October 1.

F. Divide the numerator by the denominator and multiply the result by 75. The final score cannot exceed 150.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:1450 (October 2019).

Shan N. Davis  
Executive Director

1910#019

## RULE

### Board of Elementary and Secondary Education

Bulletin 126—Charter Schools  
Alternative Education Sites  
(LAC 28:CXXXIX.107)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28:CXXXIX, *Bulletin 126—Charter Schools*. The amendment addresses alternative schools that operate as charter schools and align alternative education and charter school approval processes. This Rule is hereby adopted on the day of promulgation.

## Title 28

### EDUCATION

#### Part CXXXIX. Bulletin 126—Charter Schools

##### Chapter 1. General Provisions

##### §107. Types of Charter Schools

A. - F. ...

G. Charter schools that serve as alternative education sites must adhere to the provisions of LAC 28:CXLIX (Bulletin 131) and will be subject to school accountability as set forth in LAC 28:XI.Chapter 35 (Bulletin 111). The Department of Education may provide for charter school alternative education site approval as part of the common charter application established in accordance with §311.B of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:3981, and 17:3973.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1358 (July 2008), amended LR 39:3249 (December 2013), LR 43:306 (February 2017), LR 45:1451 (October 2019).

Shan N. Davis  
Executive Director

1910#018

## RULE

### Board of Elementary and Secondary Education

Bulletin 140—Louisiana Early Childhood Care and Education Network—Academic Approval; Accountability; and Coordinated Enrollment  
(LAC 28:CLXVII.313, 503, 509, 511, and 709)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28:CLXVII, *Bulletin 140—Louisiana Early Childhood Care and Education Network*. Amendments remove outdated language for academic approval that pertained only to fiscal years 2016-2017 through 2018-2019 and report classrooms serving infants that receive a “low” on the lack of adult negativity indicator during the *CLASS*® observation by written notice at the end of the observation period, and noting that sites receiving a notice for two consecutive observation periods may have the notice reported on the performance profile, which mirrors the notice received if a classroom scores a 3.5 or higher for the negative climate dimension for toddler and pre-k classrooms.

Additionally, amendments also reflect updates required to fully implement observations and supports for classrooms serving infants and allow early childhood funding alignment with the “super app” as follows:

- updating coordinated observation plans and support requirements to include classrooms serving infants by defining the domain and dimensions to be used in observations, aligning requirements, across ages, and including inter-rater reliability checks for each classroom age configuration in a network;
- revising the observer reliability calculation to include the full school year by modifying the current observer reliability rate calculated from each semester, which limits many observers to only a few observations that can adversely affect the performance rating and expanding the number of observations included in the calculation over a full school year; and
- aligning the requirements of network requests for funding to the “super app” process by establishing that the LDE will release the timeline for funding requests by September 1 in order for lead agencies to develop requests. This Rule is hereby adopted on the day of promulgation.

## Title 28

### EDUCATION

#### Part CLXVII. Bulletin 140—Louisiana Early Childhood Care and Education Network

##### Chapter 3. Early Childhood Care and Education Network

##### §313. Academic Approval for Type III Early Learning Centers

A. - D.3.c. ...

E. Initial Academic Approval for an Applicant for a New Full-Day Type III Early Learning Center License for Fiscal Years 2019-2020 and beyond

1. - 2. ...

F. Renewal of Academic Approval for Full-Day Type III Early Learning Centers for Fiscal Years 2019-2020 and beyond

1. Academic approval will be renewed annually for fiscal years 2019-2020 and beyond for any full-day type III early learning center that:

- a. has current academic approval;
- i. - iii.(b). Repealed.
- b. is in compliance with the provisions of this Part;
- c. has not had two unsatisfactory performance ratings within any consecutive three school years; and
- d. has submitted a signed copy of the current annual program partner assurances for full-day early learning centers to the department, thereby certifying that:
  - i. the center will comply with the provisions of this Part, which include:

(a). membership in the corresponding community network, in accordance with Chapter 3 of this Part;

(b). participation in the early childhood care and education accountability system, in accordance with Chapter 5 of this Part; and

(c). participation in the coordinated enrollment process, as provided in Chapter 7 of this Part; and

ii. all lead teachers at the center:

(a). have an early childhood ancillary certificate or other traditional teaching certificate issued by BESE; or

(b). are in the process of completing training that will lead to an early childhood ancillary certificate and will have obtained an early childhood ancillary certificate issued by BESE within 24 months of the start date as a lead teacher; and

iii. a minimum of 20 hours a week of care for every classroom providing full-day care in a publicly-funded site will be provided by a lead teacher(s) or lead teachers that:

(a). have an early childhood ancillary certificate or other traditional teaching certificate issued by BESE; or

(b). are in the process of completing training that will lead to the early childhood ancillary certificate and will have obtained an early childhood ancillary certificate issued by BESE within 24 months of the start date as a lead teacher.

2. Full-day type III early learning centers must annually submit a signed copy of annual program partner assurances for full-day type III early learning centers to the department prior to July 1, or as requested by the department, whichever occurs earlier.

G. A center that has academic approval terminated may not apply for academic approval for the fiscal year in which academic approval was terminated or the following fiscal year.

1. - 2. Repealed.

H. Academic approval will be valid for the fiscal year, July 1-June 30, for which it is granted.

1. - 2. Repealed.

I. Academic approval is granted to a specific owner and a specific location and is not transferable. If a type III early learning center changes owners or location, it is considered a new operation and academic approval for the new owner or location must be obtained prior to beginning operations under new ownership or at the new location.

J. Upon a change of ownership or change of location, academic approval granted to the original owner or at the original location becomes null and void.

K. Renewal. Prior to July 1 of each year, the department will send notice to each type III early learning center that has academic approval providing one of the following:

1. renewal of academic approval for the center;

2. notice of the center's failure to comply with specific requirements in Subsection A of this Section and specific corrective actions that must be taken by a specified date in order for academic approval to be renewed; or

3. if an early learning center has received the notice outlined in Subparagraph L.2.a of this Section within the academic year and has not provided the required certifications and completed the stated corrective actions, the department may terminate the center's academic approval as provided in Subparagraph L.2.c of this Section and send notice of termination of the center's academic approval.

L. Denial, Termination, or Refusal to Renew Academic Approval

1. The department may deny, terminate, or refuse to renew academic approval for:

a. violations of any provisions of this Part;

b. failure to timely comply with a corrective action plan provided by the department;

c. any act of fraud, such as the submission of false or altered documents or information;

d. failure to timely submit a signed copy of the annual program partner assurances;

e. two unsatisfactory performance ratings within any consecutive three school years; or

f. failure to participate in the early childhood school or center improvement planning process, as required by §512 of this Part.

2. Notice

a. If a type III early learning center is in violation of any provision of this Part, the department will notify the center in writing and may specify any corrective actions in a corrective action plan that will be required to retain academic approval.

b. Within 30 calendar days of receiving such notice, the center must submit certification in writing to the department that:

i. corrective actions specified in the corrective action plan have been taken or are in the process of being taken in compliance with the schedule provided in the corrective action plan; and

ii. the center will remain in compliance with the corrective action plan and all applicable regulations.

c. If the type III early learning center does not respond in a timely or satisfactory manner to the notice and corrective action plan or adhere to the implementation schedule required in the corrective action plan, the department may terminate or refuse to renew the center's academic approval.

d. The department will provide written notice of a denial, termination, or refusal to renew academic approval to the center.

e. The denial, termination or refusal to renew a center's academic approval will be effective when notice of the denial, termination, or refusal to renew is given.

## M. Appeal Procedure

1. BESE will have the authority to grant an appeal of the denial, termination or refusal to renew academic approval for a type III early learning center.

a. - c. Repealed.

2. The appeal procedure will be used when needed to address unforeseen and aberrant factors impacting type III early learning centers or when needed to address issues that arise when the literal application of the academic approval regulations does not consider certain unforeseen and unusual circumstances.

3. A type III early learning center may request an appeal of the denial, termination, or refusal to renew its academic approval by submitting a written request for an appeal to the department within 15 calendar days of being given notice of the denial, termination, or refusal to renew its academic approval.

4. All appeal requests must clearly state the specific reasons for requesting the appeal and the reasons why the appeal should be granted and must include any necessary supporting documentation.

5. The department will review all timely submitted appeal requests and make recommendations to BESE during the first regularly scheduled BESE meeting following receipt of the appeal requests, or during the second regularly scheduled BESE meeting if an appeal request is received within 10 working days of the next regularly scheduled BESE meeting. Within this interval, the department will notify the center of its recommendation and allow the center to respond in writing. The department's recommendation and the center's response must be submitted to BESE for final disposition.

6. An early learning center that appeals the termination or refusal to renew its academic approval will retain its academic approval during the appeal process.

N. - O.6. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:407.36(C), and 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2584 (December 2015), amended LR 42:1871 (November 2016), LR 43:2129 (November 2017), LR 44:1439 (August 2018), LR 45:1451 (October 2019).

## Chapter 5. Early Childhood Care and Education Accountability System

### §503. Coordinated Observation Plan and Observation Requirements

A. - B.1. ...

#### 2. Domains and Dimensions

a. *CLASS*® observations for infant classrooms must include the infant *CLASS*® domain and all dimensions contained within.

b. *CLASS*® observations for toddler classrooms must include both toddler *CLASS*® domains, which are emotional and behavioral support and engaged support for learning, and all dimensions contained within.

c. *CLASS*® observations for pre-K classrooms must include all three pre-K *CLASS*® domains, which are emotional support, classroom organization, and instructional support, and all dimensions contained within.

#### 3. Required Observations

a. Beginning with the 2019-2020 school year, all infant, toddler, and pre-K classrooms in a publicly-funded

site will receive two *CLASS*® observations during the school year conducted by the community network.

3.b. - 4.d. ...

e. a classroom that is a combination of infant, toddler, and pre-K children must be observed using the tool appropriate for the majority of the class. If there is no clear majority among the three age groups, the toddler tool must be used.

5. ...

a. Within each school year, for observations conducted by a community network observer that have been compared to domain-level results conducted by the department's third-party contractors, if more than 20 percent of the domain-level results are different by more than 1 point for the community network observer, that observer and lead agency will be issued a notice in writing by the state regarding the level of accuracy.

b. Within each school year, for observations conducted by a community network observer that have been compared to domain-level results conducted by the department's third-party contractors, if more than 33 percent of the domain-level results are different by more than 1 point for the community network observer, that observer will be shadow scored by another community network observer in the next observation period.

c. - d. ...

e. At the end of each observation period, the department will notify lead agencies in writing of all community network observers that have more than 20 percent of the domain-level results that differ by more than 1 point from comparable observations conducted by the department's third-party contractors.

C. - C.1.b.ii. ...

iii. the community network conducts inter-rater reliability observation checks for 10 percent of all classrooms observed during the fall observation period and for 10 percent of all classrooms observed during the spring observation period, and that these reliability observation checks include every observer and at least one observation for each classroom age configuration in the community network at least once annually; and

C.1.b.iv. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2586 (December 2015), amended LR 42:1872 (November 2016), LR 43:2131 (November 2017), LR 44:1440 (August 2018), LR 45:1453 (October 2019).

### §509. Performance Rating Calculations for Publicly-Funded Sites

A. - A.3. ...

4. Sites that have classrooms which receive a score of 3.5 or above for the negative climate dimension and sites that have infant classrooms that receive a "low" on the lack of adult negativity indicator will receive a notice in writing at the end of the observation period in which the score was received. If a site receives a notice for two consecutive observation periods, an indicator of high negative climate, low lack of adult negativity or an indicator for both may be reported on the performance profile. Lack of adult negativity is an indicator used in infant *CLASS*® and is comparable to the pre-K and toddler negative climate dimension. Like all

indicators for *CLASS*®, the measure is expressed as “high,” “medium,” or “low” rather than as a numerical score.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2587 (December 2015), amended LR 42:1873 (November 2016), LR 44:1442 (August 2018), LR 45:1453 (October 2019).

#### **§511. Performance Rating Calculations for Community Networks**

A. - A.3. ...

B. The *CLASS*® observation results will be determined by averaging the results of all fall and spring dimension-level toddler and pre-K observation results for all toddler and pre-K classrooms within the community network excluding negative climate. Beginning in the 2020-2021 school year, the *CLASS*® observation results will be determined by averaging the results of all fall and spring dimension-level infant, toddler, and pre-K observation results for all infant, toddler, and pre-K classrooms within the community network, excluding negative climate.

B.1. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015), amended LR 42:1874 (November 2016), LR 44:1442 (August 2018), LR 45:1454 (October 2019).

#### **Chapter 7. Coordinated Enrollment**

#### **§709. Community Network Request for Funding for Publicly-Funded Programs**

A. Annually by September 1, the department will release the timeline by which the lead agency will develop, in collaboration with representatives of providers of child care, Head Start, and prekindergarten services, and submit a funding request for the following fiscal year to the department on behalf of the community network and based on the coordinated enrollment results, to include the following:

A.1. - B....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:407.21 et seq., and 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2592 (December 2015), amended LR 42:1877 (November 2016), LR 45:1454 (October 2019).

Shan N. Davis  
Executive Director

1910#017

### **RULE**

#### **Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction  
TOPS University Diploma (LAC 28:CXV.Chapter 23)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28:CXV, *Bulletin 741—Louisiana Handbook for School*

*Administrators*. Amendments incorporate courses into policy for high school graduation requirements and make technical edits. Additionally, courses required for the TOPS university diploma and the career diploma are aligned with corresponding Cambridge courses. This Rule is hereby adopted on the day of promulgation.

#### **Title 28**

#### **EDUCATION**

#### **Part CXV. Bulletin 741—Louisiana Handbook for School Administrators**

#### **Chapter 23. Curriculum and Instruction**

#### **Subchapter A. Standards and Curricula**

#### **§2318. The TOPS University Diploma**

A. - C.2.j. ...

3. For incoming freshmen in 2014-2015 and beyond who are completing the TOPS university diploma, the minimum course requirements will be the following:

a. English—four units:

i. one of the following:

(a). English I;

(b). English language (part 1): Cambridge IGCSE; or

(c). English literature (part 1): Cambridge

IGCSE;

ii. one of the following:

(a). English II;

(b). English language (part 2): Cambridge IGCSE; or

(c). English literature (part 2): Cambridge

IGCSE;

iii. one of the following:

(a). - (e). ...

(f). English language (part 1): Cambridge

AICE—AS (honors); or

(g). literature in English (part 1): Cambridge

AICE—AS (honors);

NOTE: If a student chooses to take the A level Cambridge course, the second unit will count as an elective credit.

iv. one of the following:

(a). - (e). ...

(f). English language (part 2): Cambridge

AICE—AS (honors); or

(g). literature in English (part 2): Cambridge

AICE—AS (honors);

NOTE: If a student chooses to take the A level Cambridge course, the second unit will count as an elective credit.

b. mathematics—four units:

i. - iii. ...

NOTE: Integrated mathematics I, II, and III, including the Cambridge IGCSE integrated mathematics sequence, may be substituted for the algebra I, geometry, and algebra II sequence.

iv. - iv.(n.). ...

(o). statistical reasoning; or

(p). additional math—Cambridge IGCSE;

(q). math 1 (probability and statistics):

Cambridge AICE (honors);

(r). math 1 (pure math): Cambridge AICE—AS

(honors);

(s). math 2 (part 1): Cambridge AICE—A level

(honors); or

- (honors);
- (t). math 2 (part 2): Cambridge AICE—A level
- c. science—four units:
- i. - iii.(b).(ii). ...
- (c). one of:
- (i). - (ii). ...
- (iii). PLTW principles of engineering;
- (d). ...
- (e). one of:
- (i). - (iii). ...
- (iv). IB chemistry II; or
- (v). chemistry II: Cambridge AICE—AS
- (honors);
- (f). - (f).(ii). ...
- (g). one of:
- (i). - (iii). ...
- (iv). physics I: Cambridge IGCSE; or
- (v). physics II: Cambridge AICE—AS
- (honors);
- (h). - (h).(iv). ...
- (i). one of:
- (i). - (iv). ...
- (v). biology II: Cambridge AICE—AS
- (honors); or
- (vi). human anatomy and physiology;
- (ii) - (ii).(v). Repealed.
- d. social studies—four units:
- i. - ii.(d). ...
- iii. two units chosen from:
- (a). one of:
- (i). - (ii). ...
- (iii). western civilization; or
- (iv). history (European): Cambridge
- AICE—AS (honors);
- (b). one of:
- (i). - (iii). ...
- (iv). physical geography; or
- (v). geography: Cambridge AICE—AS
- (honors);
- (c). one of:
- (i). - (ii). ...
- (iii). IB history of the Americas II; or
- (iv). history (international): Cambridge
- AICE—AS (honors);
- (d). one of:
- (i). IB economics;
- (ii). economics;
- (iii). AP macroeconomics;
- (iv). AP microeconomics; or
- (v). economics: Cambridge AICE—AS
- (honors);
- (e). AP psychology;
- (f). history of religion;
- (g). - (h). Repealed.

C.3.e. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, 17:183.2, and 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601

(December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:915 (May 2015), LR 41:1482 (August 2015), LR 41:2126 (October 2015), LR 42:232 (February 2016), LR 42:1062 (July 2016), LR 42:1878 (November 2016), LR 42:2176 (December 2016), LR 43:1287 (July 2017), LR 43:2132 (November 2017), LR 43:2483 (December 2017), LR 44:263 (February 2018), LR 44:1868 (October 2018), repromulgated LR 44:1998 (November 2018), amended LR 45:1454 (October 2019).

## **§2320. Career Diploma Pathway for Students Assessed on the Louisiana Alternate Assessment**

### **A. Introduction**

1. Students who meet the participation criteria for the alternate assessment in LAC 28:XCVII, *Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities*, will be eligible for a career diploma by satisfying the pathway requirements detailed in this Section.

2. This diploma pathway does not meet the federal definition of a regular high school diploma. Students who receive the career diploma based on the pathway in this Section will remain eligible for special education and related services until the end of the school year in which they turn 22.

### **B. - B.2. ...**

### **C. Assessment Requirement**

1. All students must participate in the high school assessment sequence.

2. Students must meet one of the two assessment requirements in Subparagraphs a and b of this Paragraph in English language arts and mathematics to earn a career diploma:

- a. students must earn a score of level 2 or higher; or
- b. - b.iii. ...

### **D. Workforce-Readiness and Career Education Requirement**

1. Career diploma workforce-readiness and career education programs for students who participate in the alternate assessment will include:

#### **D.1.a. - E.4.c. ...**

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, 17:183.2, 17:183.3, 17:274, 17:274.1, and 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:1483 (August 2015), amended LR 45:1455 (October 2019).

## **Subchapter B. Academic Programs of Study**

### **§2345. Foreign Languages**

A. The foreign language course offerings shall be as follows.

Course Title(s)	Units
French I, II, III, IV, V	1 each
***	
IB Classical Language	1
Cambridge AICE—AS (Honors): Arabic	1
Cambridge AICE—AS (Honors): French	1
Cambridge AICE—AS (Honors): German	1
Cambridge AICE—AS (Honors): Spanish	1
Cambridge AICE—AS (Honors): Spanish Literature	1
Cambridge AICE—AS (Honors): Chinese	1
Cambridge AICE—AS (Honors): Japanese	1

B. - B.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 273, and R.S. 17:284.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 36:1996 (September 2010), LR 38:759 (March 2012), LR 38:2364 (September 2012), LR 39:2220 (August 2013), LR 40:998 (May 2014), LR 40:2527 (December 2014), LR 43:2133 (November 2017), LR 43:2484 (December 2017), LR 45:1455 (October 2019).

Shan N. Davis  
Executive Director

1910#016

## RULE

### Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators—Curriculum and Instruction—TOPS University Diploma and the Career Diploma (LAC 28:LXXIX.2109 and 2317)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28:LXXIX, *Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*. Amendments incorporate courses into policy for high school graduation requirements and make technical edits. Additionally, courses required for the TOPS university diploma and the career diploma are aligned with corresponding Cambridge courses. This Rule is hereby adopted on the day of promulgation.

#### Title 28

#### EDUCATION

#### Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators

#### Chapter 21. Curriculum and Instruction

#### Subchapter C. Secondary Schools

#### §2109. High School Graduation Requirements

A. - C.7. ...

D. For incoming freshmen in 2014-2015 and beyond who are completing the TOPS university diploma, the minimum course requirements will be the following:

1. English—four units:
  - a. one of the following:
    - i. English I;
    - ii. English language (part 1): Cambridge IGCSE;
  - or
  - iii. English literature (part 1): Cambridge IGCSE;
  - b. one of the following:
    - i. English II;
    - ii. English language (part 2): Cambridge IGCSE;
  - or
  - iii. English literature (part 2): Cambridge IGCSE;
  - c. - c.v. ...
  - vi. English language (part 1): Cambridge AICE—AS (honors); or
  - vii. literature in English (part 1): Cambridge AICE—AS (honors);

NOTE: If a student chooses to take the A level Cambridge course, the second unit will count as an elective credit.

d. - d.v. ...

vi. English language (part 2): Cambridge AICE—AS (honors); or

vii. literature in English (part 2): Cambridge AICE—AS (honors);

NOTE: If a student chooses to take the A level Cambridge course, the second unit will count as an elective credit.

2. - 2.d.xiv. ...

xv. additional math: Cambridge IGCSE;

xvi. math 1 (probability and statistics): Cambridge AICE (honors);

xvii. math 1 (pure math): Cambridge AICE—AS (honors);

xviii. math 2 (part 1): Cambridge AICE—A level (honors); or

xix. math 2 (part 2): Cambridge AICE—A level (honors);

3. science—four units:

a. - b. ...

c. two units from the following:

i. ...

ii. one of:

(a). environmental science;

(b). environmental awareness;

iii. one of:

(a). physical science;

(b). principles of engineering;

(c). PLTW principles of engineering;

iv. ...

v. one of:

(a). - (d). ...

(e). chemistry II: Cambridge AICE—AS

(honors);

vi. - vi.(b). ...

vii. one of:

(a). - (c). ...

(d). physics I: Cambridge IGCSE; or

(e). physics II: Cambridge AICE—AS (honors);

viii. - viii.(d). ...

ix. one of:

(a). - (d). ...

(e). biology II: Cambridge AICE—AS (honors);

or

(f). human anatomy and physiology;

4. - 4.b.iv. ...

c. two units chosen from:

i. one of:

(a). - (b). ...

(c). western civilization; or

(d). history (European): Cambridge AICE—AS

(honors);

ii. one of:

(a). - (c). ...

(d). physical geography; or

(e). geography: Cambridge AICE—AS (honors);

iii. one of:

(a). - (b). ...

(c). IB history of the Americas II; or



(d). history (international): Cambridge AICE—AS (honors);

iv. - vii. ...

viii. economics: Cambridge AICE—AS (honors);

ix. history of religion;

x. AP psychology;

D.5. - E. ...

1. The minimum course requirements for a career diploma for incoming freshmen in 2014-2015 and beyond will be the following:

a. English—4 units:

i. one of the following:

(a). English I;

(b). English language (part 1): Cambridge

IGCSE; or

(c). English literature (part 1): Cambridge

IGCSE;

ii. one of the following:

(a). English II;

(b). English language (part 2): Cambridge

IGCSE; or

(c). English literature (part 2): Cambridge

IGCSE;

iii. the remaining units will come from the following:

(a). - (c). ...

(d). English language (part 1): Cambridge

AICE—AS (honors);

(e). literature in English (part 1): Cambridge

AICE—AS (honors);

(f). English IV;

(g). English language (part 2): Cambridge

AICE—AS (honors);

(h). literature in English (part 1): Cambridge

AICE—AS (honors);

(i). any AP or IB English course; or

(j). comparable Louisiana Technical College courses offered by Jump Start regional teams as approved by BESE;

b. mathematics—4 units:

i. ...

ii. the remaining units will come from the following:

(a). geometry or applied geometry;

(b). technical math;

(c). medical math;

(d). applications in statistics and probability;

(e). financial math;

(f). math essentials;

(g). algebra II;

(h). advanced math—pre-calculus;

(i). discrete mathematics;

(j). probability and statistics;

(k). additional math—Cambridge IGCSE;

(l). math 1 (pure math): Cambridge AICE—AS

(honors);

(m).comparable Louisiana Technical College courses offered by Jump Start regional teams, as approved by BESE;

(n). integrated mathematics I, II, and III may be substituted for algebra I, geometry, and algebra II and will count as three math credits;

c. science—2 units:

i. ...

ii. 1 unit from the following physical science cluster:

(a). physical science;

(b). integrated science;

(c). chemistry I;

(d). ChemCom;

NOTE: Repealed.

(e). physics I;

(f). physics I: Cambridge IGCSE;

(g). physics of technology I;

iii. 1 unit from the following courses:

(a). food science;

(b). forensic science;

(c). allied health science;

(d). basic body structure and function;

(e). basic physics with applications;

(f). aerospace science;

(g). earth science;

(h). agriscience II;

(i). physics of technology II;

(j). environmental science;

(k). anatomy and physiology;

(l). animal science;

(m).biotechnology in agriculture;

(n). environmental studies in agriculture;

(o). health science II;

(p). EMT—basic;

(q). biology II: Cambridge AICE—AS (honors);

(r). chemistry II: AICE—AS (honors);

(s). physics II: Cambridge AICE—AS (honors);

(t). principles of engineering;

(u). PLTW principles of engineering;

(v). (LSU partnership) principles of engineering;

(w).an additional course from the physical science cluster; or

(x). course(s) developed by the LEA and approved by BESE;

iv. students may not take both integrated science and physical science;

v. agriscience I is a prerequisite for agriscience II and is an elective course;

E.1.d. - F.3.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003), amended LR 30:2776 (December 2004), LR 31:3081 (December 2005), LR 34:2099 (October 2008), LR 36:2849 (December 2010), LR 37:2142, 2144 (July 2011), repromulgated

LR 37:2390 (August 2011), amended LR 37:2597 (September 2011), LR 38:769 (March 2012), LR 38:1008 (April 2012), LR 39:1444 (June 2013), LR 40:1682 (September 2014), LR 40:2535 (December 2014), LR 41:915 (May 2015), LR 41:1485 (August 2015), LR 41:2127 (October 2015), LR 42:1064 (July 2016), LR 43:1289 (July 2017), LR 45:38 (January 2019), LR 45:1456 (October 2019).

## Chapter 23. High School Program of Studies

### §2317. Foreign Languages

A. The foreign language course offerings will be as follows.

Course Title(s)	Units
Chinese I, II, III, IV, V	1 each
* * *	
IB Classical Language	1
Cambridge AICE—AS (Honors): Arabic	1
Cambridge AICE—AS (Honors): French	1
Cambridge AICE—AS (Honors): German	1
Cambridge AICE—AS (Honors): Spanish	1
Cambridge AICE—AS (Honors): Spanish Literature	1
Cambridge AICE—AS (Honors): Chinese	1
Cambridge AICE—AS (Honors): Japanese	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003), amended LR 31:3086 (December 2005), LR 38:770 (March 2012), LR 40:1685 (September 2014), LR 40:2538 (December 2014), LR 45:1458 (October 2019).

Shan N. Davis  
Executive Director

1910#015

## C. Certification Areas

### 1. Grades 6-12 Certification

Grades 6-12 Certification Areas					
Certification Area	Name of PRAXIS Test	Score			PLT 7-12
* * *					
Physics	Physics: Content Knowledge (0265 or 5265)	141			157
Social Studies	Social Studies: Content and Interpretation (0086 or 5086)	*153	---	---	157
Spanish	Spanish: World Language (5195)	157	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World languages Pedagogy 0841 (Score 158)		
* * *					

\* The passing score for tests taken prior to January 1, 2020 is 160.

C.2. - F. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 36:485 and 488 (March 2010), LR 36:2265 (October 2010), LR 37:551 (February 2011), repromulgated LR 37:556 (February 2011), amended LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014), LR 40:1680 (September 2014), LR 41:645 (April 2015), LR 41:916 (May 2015), LR 42:233 (February 2016), LR 43:1292 (July 2017), LR

## RULE

### Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Certifications and Endorsements  
(LAC 28:CXXXI.203, Chapter 3,  
417, 506, and Chapters 6-7)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28:CXXXI, *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. Amendments include aligning regulations in the LAC with statutory language pertaining to successful out-of-state teaching experience for the issuance of teaching or educational leadership certificates, clarifying the PRAXIS examination(s) that are accepted for issuance of the algebra I add-on endorsement to provide consistency and continuity with citations within certification policy, and to create alignment of the required score for the social studies PRAXIS exam (5086) (currently 160) with the score recommended by the Educational Testing Service's (ETS) multistate standard-setting study (153). This Rule is hereby adopted on the day of promulgation.

## Title 28

### EDUCATION

#### Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

#### Chapter 2. Initial Teacher Certification

#### Subchapter B. Testing Required for Certification Areas

#### §203. Certification Exams and Scores

##### (Formerly §243)

A. - B. ...

\* \* \*

44:264 (February 2018), LR 44:1999 (November 2018), LR 45:228, 230 (February 2019), repromulgated LR 45:403 (March 2019), LR 45:1458 (October 2019).

#### Chapter 3. Teaching Authorizations and Certifications

#### Subchapter A. Standard Teaching Authorizations

Editor's Note: The name of the Division of Student Standards and Assessments has been changed to The Division of Student Standards, Assessments, and Accountability.

#### §305. Professional Level Certificates

A. - A.1.b.ii. ...

(a). he/she meets all requirements for Louisiana certification except the Praxis exam requirements; has at least three years of successful teaching experience in another

state, as verified by the out-of-state employing authority or state education agency (SEA); and teaches on an out-of-state certificate for one year in a Louisiana-approved public or an approved private school system;

A.1.b.ii.(b). - B.1.a. ...

b. either successfully meet the standards of effectiveness for three years pursuant to state law and LAC 28:CXLVII (Bulletin 130) or receive a waiver of this provision from the LDE, at the request of the employing LEA, if the teacher was unable to meet the standards of effectiveness due to administrative error in the local implementation of the evaluation system any year prior to the 2015-2016 school year:

i. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA; and

B.1.c. - C.1.c. ...

i. All out-of-state experience must be verified as successful by the out-of-state employing authority or SEA.

C.2. - E.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1797 (October 2006), amended LR 33:433 (March 2007), LR 34:233 (February 2008), LR 34:1611 (August 2008), LR 35:222 (February 2009), LR 37:558 (February 2011), LR 38:1951 (August 2012), LR 40:279 (February 2014), LR 41:2128 (October 2015), LR 43:1304 (July 2017), LR 44:745 (April 2018), LR 45:525 (April 2019), LR 45:1458 (October 2019).

### **§307. Type C Certificates**

A. - D.1.d. ...

i. All out-of-state experience must be verified as successful by the out-of-state employing authority or SEA.

D.2. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1798 (October 2006), amended LR 37:559 (February 2011), LR 38:3136 (December 2012), LR 43:1306 (July 2017), LR 45:1459 (October 2019).

### **§309. Out-of-State (OS) Certificate**

A. - C.1.c. ...

i. he/she meets all requirements for Louisiana certification except the Praxis exam requirements; has at least three years of successful teaching experience in another state, as verified by the out-of-state employing authority or SEA; and teaches on an OS certificate for one year in a Louisiana approved public or an approved private school system;

ii. - iii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1799 (October 2006), amended LR 33:433 (March 2007), LR 34:1611 (August 2008), LR 35:222 (February 2009), LR 35:894 (May 2009), LR 37:559 (February 2011), LR 37:882 (March 2011), LR 40:280 (February 2014), LR 43:1306 (July 2017), LR 45:1459 (October 2019).

### **§311. World Language Certificate (WLC) PK-12**

A. - C.2. ...

3. evidence of two years of successful teaching experience in the country of origin:

a. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA; and

C.4. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1800 (October 2006), amended LR 33:1618 (August 2007), LR 34:233 (February 2008), LR 35:642 (April 2009), LR 36:486 (March 2010), LR 38:1952 (August 2012), LR 40:280 (February 2014), LR 43:1307 (July 2017), LR 44:745 (April 2018), LR 44:2133 (December 2018), LR 45:1459 (October 2019).

### **Subchapter C. Ancillary Teaching Certificates**

#### **§343. Artist or Talented Certificate**

A. - C.3.c. ...

i. All out-of-state experience must be verified as successful by the out-of-state employing authority or SEA.

4. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1805 (October 2006), amended LR 38:762 (March 2012), LR 38:3136 (December 2012), LR 45:1459 (October 2019).

#### **§345. Nonpublic Montessori Teacher Certificate**

A. - C.1.g. ...

2. For a type B Montessori certificate:

a. at least one year of successful teaching experience in a Montessori school:

i. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA; and

b. - b.vii. ...

3. For type A, junior class A, and junior Montessori certificates:

a. ...

b. at least one year of successful teaching experience in a Montessori school:

i. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA; and

C.3.c. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1805 (October 2006), amended LR 38:3136 (December 2012), LR 45:1459 (October 2019).

#### **§346. Family and Consumer Sciences (Occupational Programs)**

A. - C.1.b. ...

i. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1806 (October 2006), amended LR 38:3137 (December 2012), LR 45:1459 (October 2019).

### **§350. Mentor Teacher Ancillary Certificate**

A. - B.1.a.ii. ...

iii. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA;

B.1.b. - C.1.a.ii. ...

iii. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA;

C.1.b. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:230 (February 2019), amended LR 45:1460 (October 2019).

### **§351. Content Leader Ancillary Certificate (Optional)**

A. ...

1. Eligibility requirements for the content leader ancillary certificate include that the candidate must:

a.i. - a.ii. ...

iii. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA.

A.1.b. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:231 (February 2019), amended LR 45:1460 (October 2019).

## **Chapter 4. Ancillary School Service Certificates**

### **Subchapter A. General Ancillary School Certificates**

#### **§417. Educational Leader in Special Education Ancillary Certificate**

A. - D.1.j. ...

2. have at least three years of experience working with students in the area of certification:

a. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA;

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1879 (November 2016), amended LR 43:1312 (July 2017), LR 45:1460 (October 2019).

## **Chapter 5. Standards for Secondary Career and Technical Trade and Industrial Education Personnel**

### **§506. CTTIE-1 and CTTIE-2 Certificate Eligibility Requirements [Formerly §505]**

A. - B.4. ...

a. All out-of-state experience must be verified as successful by the out-of-state employing authority or SEA.

B.5. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1813 (October 2006),

amended LR 35:2752 (December 2009), LR 36:2843 (December 2010), LR 38:2366 (September 2012), LR 40:1330 (July 2014), LR 45:1460 (October 2019).

### **§509. CTTIE-1 Certificate Renewal Guidelines for certificates initially issued prior to September 1, 2014**

**[Formerly §507]**

A. - A.6.a. ...

B. The coursework must be completed from the following approved list:

1. a new instructor workshop (mandatory for all instructors who do not hold a valid Louisiana teaching certificate and do not have three years of successful teaching experience:

a. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA;

B.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1814 (October 2006), amended LR 33:2356 (November 2007), LR 35:2753 (December 2009), LR 36:2000 (September 2010), LR 38:3137 (December 2012), LR 40:1331 (July 2014), LR 45:1460 (October 2019).

## **Chapter 6. Endorsements to Existing Certificates**

### **§601. Introduction**

A. - A.6. ...

7. All out-of-state experience must be verified as successful by the out-of-state employing authority or SEA.

B. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1814 (October 2006), amended LR 37:1381 (May 2011), LR 40:2242 (November 2014), LR 45:1460 (October 2019).

### **Subchapter B. Special Education Level and Area Endorsements**

#### **§623. Requirements to add Academically Gifted**

A. - A.2.e. ...

3. three semester hours in a practicum for academically gifted; or an internship for college credit in academically gifted; or three years of successful teaching experience in academically gifted:

a. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA;

4. - 4.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1816 (October 2006), amended LR 45:1460 (October 2019).

#### **§627. Requirements to add Hearing Impaired K-12**

A. - B. ...

1. All out-of-state experience must be verified as successful by the out-of-state employing authority or SEA.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1817 (October 2006),

amended LR 37:552 (February 2011), LR 40:281 (February 2014), LR 45:1460 (October 2019).

**§631. Requirements to add Significant Disabilities 1-12**

A. - A.1.g. ...

2. three semester hours of internship of students with significant disabilities; or three years of successful teaching experience of students with significant disabilities:

a. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA; and

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1818 (October 2006), amended LR 37:555 (February 2011), LR 39:1465 (June 2013), LR 45:1461 (October 2019).

**§633. Requirements to add Visual Impairments/Blind K-12**

A. - A.1.g. ...

2. three semester hours of internship of students who are visually impaired; or three years of successful teaching experience of students who are visually impaired or blind:

a. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA;

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1818 (October 2006), amended LR 37:556 (February 2011), LR 39:1465 (June 2013), LR 40:281 (February 2014), LR 45:1461 (October 2019).

**Subchapter C. All Other Teaching Endorsement Areas**

**§645. Adult Education Instructor**

A. - A.2.b.i. ...

ii. practicum in adult education, three semester hours or three years of successful teaching experience in adult education:

(a). all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA.

A.2.b.iii. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1818 (October 2006), amended LR 36:485 (March 2010), LR 45:1461 (October 2019).

**§648. Algebra I**

A. - A.1. ...

2. pass either the:

a. middle school principals of learning and teaching (PLT) exam; or

b. secondary PLT exam;

3. pass the PRAXIS middle school mathematics exam; and

4. pass the algebra I PRAXIS exam.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1386 (July 2008),

amended LR 39:1465 (June 2013), LR 40:281 (February 2014), LR 45:228 (February 2019), LR 45:1461 (October 2019).

**§666. Elementary Mathematics Specialist**

NOTE: Valid for serving as an instructional coach in mathematics in grades PK-6.

A. - B. ...

1. three years of successful teaching experience to include the teaching of mathematics:

a. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA;

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2135 (July 2011), amended LR 45:1461 (October 2019).

**Chapter 7. Administrative and Supervisory Credentials**

**Subchapter A. The Educational Leadership Certificate**

**§705. Educational Leader Certificate Level 1 (EDL 1)**

A. - A.2. ...

a. hold or be eligible to hold a valid Louisiana type B or level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience in his/her area of certification:

i. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA;

2.b. - 3. ...

a.i. hold, or be eligible to hold, a valid Louisiana type B or level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience in his/her area of certification;

ii. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA;

3.b. - 4. ...

a.i. hold, or be eligible to hold, a valid Louisiana type B or level 2 teaching certificate or have a comparable level out-of-state teaching certificate and three years of teaching experience in his/her area of certification:

ii. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA;

4.b. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1823 (October 2006), amended LR 33:819 (May 2007), LR 38:43 (January 2012), LR 38:3138 (December 2012), LR 39:1465 (June 2013), LR 43:1313 (July 2017), LR 45:231 (February 2019), LR 45:526 (April 2019), LR 45:1461 (October 2019).

**§706. Educational Leader Certificate Level 2 (EDL 2)**

**[Formerly §707]**

A. To receive an EDL 2, the individual must:

1. - 2. ...

3. if applicable, have all out-of-state experience verified as successful by the out-of-state employing authority or SEA;

4. participate in an education leader induction administered, if required by the LEA;

5. for individuals who are employed in a leadership capacity at the school level, either meet the standards of

effectiveness as an educational leader for three years pursuant to LAC 28:CXLVII (Bulletin 130) and R.S. 17:3902 or receive a waiver of this provision from the LDE, at the request of the employing LEA, if the educational leader was unable to meet the standards of effectiveness any year prior to the 2015-2016 school year due to administrative error in the local implementation of the evaluation system; and

6. for individuals who are employed in a leadership capacity at the district level, earn effective ratings per local personnel evaluations for three years.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1823 (October 2006), amended LR 33:820 (May 2007), LR 38:43 (January 2012), LR 38:3138 (December 2012), LR 39:1465 (June 2013), LR 41:2129 (October 2015), LR 45:526 (April 2019), LR 45:1461 (October 2019).

**§708. Educational Leader Certificate Level 3 (EDL 3)  
[Formerly §709]**

A. - A.1.b. ...

c. five years of successful administrative or management experience in education at the level of assistant principal or above. The assistant principal experience would be limited to a maximum of two years of experience in that position:

i. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA; and

1.d. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1824 (October 2006), amended LR 38:3139 (December 2012), LR 41:2129 (October 2015), LR 45:526 (April 2019), LR 45:1462 (October 2019).

**Subchapter B. Out-of-State Administrative Certification  
Structure**

**§721. Out-of-State Principal Level 1 (OSP1)**

A. - A.1.a. ...

b. a minimum of two years of successful experience as a principal or assistant principal in another state, as verified by the out-of-state employing authority or SEA;

1.c. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, R.S. 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1824 (October 2006), amended LR 35:2325 (November 2009), LR 38:43 (January 2012), LR 39:1465 (June 2013), LR 45:1462 (October 2019).

**§723. Out-of-State Principal Level 2 (OSP2)**

A. - A.1.b. ...

i. a minimum of four years of successful experience as a principal in another state, as verified by the out-of-state employing authority or SEA;

1.b.ii. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1825 (October 2006), amended LR 35:2325 (November 2009), LR 36:882 (March 2011), LR 38:43 (January 2012), LR 38:3139 (December 2012), LR 39:1466 (June 2013), LR 45:527 (April 2019), LR 45:1462 (October 2019).

**§725. Out-of-State Superintendent (OSS)**

A. - A.1.e. ...

i. All out-of-state experience must be verified as successful by the out-of-state employing authority or SEA.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1825 (October 2006), amended LR 38:3140 (December 2012), LR 45:527 (April 2019), LR 45:1462 (October 2019).

**Subchapter C. Administrative and Supervisory  
Endorsements Superseded by the  
Educational Leadership Certification  
Structure**

**§747. Parish or City School Superintendent**

A. Eligibility requirements:

1. ...

2. five years of successful school experience (state, parish, or city) as superintendent, assistant superintendent, supervisor of instruction, principal, or assistant principal in a State-approved system, or experience certified as equivalent to any of these by the Board of Elementary and Secondary Education. Assistant principal experience is limited to a maximum of two years of experience in that position:

a. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA;

A.3. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1826 (October 2006), amended LR 45:1462 (October 2019).

**§753. Special School Principal**

A. Special school principal eligibility requirements:

1. ...

2. graduate training in special education, including at least one course in administration/supervision of special education, and generic certification in one or more areas of exceptionalities served by that school;

3. five years of successful professional experience, at least three years of which must have been in special education; and

4. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA.

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1828 (October 2006), amended LR 45:1462 (October 2019).

**Subchapter E. All Other Supervisory Endorsements**

**§783. Supervisor of School Libraries—Eligibility**

**Requirements**

- A. Supervisor of school libraries eligibility requirements:
1. ...
  2. five or more years of successful experience as a school librarian:
    - a. all out-of-state experience must be verified as successful by the out-of-state employing authority or SEA;

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1828 (October 2006), amended LR 45:1463 (October 2019).

Shan N. Davis  
Executive Director

1910#014

**RULE**

**Board of Elementary and Secondary Education**

**Bulletin 1530—Louisiana’s IEP Handbook for Students with Exceptionalities—Alternate Assessments (LAC 28:XCVII.505)**

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 1530—Louisiana’s IEP Handbook for Students with Exceptionalities*. The amendments ensure the alternate assessment (LEAP connect) is reserved for students with the most significant cognitive disabilities, as required by the Every Student Succeeds Act (ESSA). This Rule is hereby adopted on the day of promulgation.

**Title 28  
EDUCATION**

**Part XCVII. Bulletin 1530—Louisiana’s IEP Handbook for Students with Exceptionalities**

**Chapter 5. Participation in Statewide Assessments**

**§505. Alternate Assessment Participation Criteria**

- A. - A.2.a. ...
- b. For students who have completed fifth grade, an eligible student is functioning 2.3 or more standard deviations below the mean in cognitive functioning.
- 2.c. - 4.k. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2343 (November 2009), amended LR 37:886 (March 2011), LR 41:535 (March 2015), LR 45:1463 (October 2019).

Shan N. Davis  
Executive Director

1910#013

**RULE**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs and Criminal Investigations Division**

**Water Quality Trading  
(LAC 33:IX. Chapter 26) (WQ099)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX. 2601, 2603, 2605, 2607, 2609, 2611, 2613, 2615, 2617, and 2619 (WQ099).

In accordance with R.S. 30:2074(B)(9)(a), the LDEQ, through this Rule will establish and administer a water quality trading(WQT) program as an inducement to reduce discharges of pollutants into waters of the state. The WQT program is a strategy to help achieve the goals of the Clean Water Act (CWA). The WQT program is voluntary and relies on a market-based approach to offer economic incentives for pollutant reduction from point and nonpoint sources. Trading allows a source to meet its regulatory obligations by using pollutant reduction "credits" generated by another source that has lower pollution control costs. The Rule will address appropriate standards for accountability and enforceability and provisions to ensure transparency. This Rule will apply to many various trading scenarios. This Rule enacts the revisions made by Act No. 371 of the 2017 Regular Session of the Louisiana Legislature. The basis and rationale for this Rule are to enact Act No. 371 of the 2017 Regular Session of the Louisiana Legislature which will protect water quality of the state. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule is hereby adopted on the day of promulgation.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part IX. Water Quality**

**Subpart 1. Water Pollution Control**

**Chapter 26. Water Quality Trading**

**§2601. Purpose, Policy, and Authority**

A. Purpose. The purpose of this Chapter is to implement a water quality trading (WQT) program and establish minimum requirements and procedures for entities regulated under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and the Louisiana Administrative Code (LAC) to meet pollution control requirements through water quality trading in Louisiana. This Chapter shall apply to all persons and sources that participate in WQT, and to the generation, registration, use, and trading of credits and all trading activities that occur under this program.

**B. Policy.**

1. WQT shall be conducted consistent with the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the LAC, and other relevant state and federal water quality regulations implemented in a manner that:

- a. results in a net improvement of water quality;

- b. contributes to meeting water quality standards;
- c. does not cause or contribute to violation of water quality standards, or impairment of designated uses;
- d. does not create localized adverse impacts on water quality and existing and designated uses;
- e. is consistent with the antidegradation policy in LAC 33:IX.1109.A;
- f. is consistent with local, state, and federal water quality requirements;
- g. results in long term improvement in water quality;
- h. increases the pace and scale of restoration and attainment of water quality standards; and
- i. assists in implementing total maximum daily loads (TMDLs).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2074(B)(9).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:1463 (October 2019).

### **§2603. General Definitions**

**Best Management Practices (BMPs)**—schedules of activities, prohibitions of practices, maintenance procedures, and other management practices designed to prevent or reduce the pollution of the waters of the state, including; treatment requirements, operating procedures, and practices to control plant site runoff, spillage, leaks, sludge, waste disposal, or drainage from raw material storage.

**BMP/Project Effectiveness**—the quantitative/qualitative evaluation of source pollution reduction after implementing a BMP(s)/project that is measured over time and accounts for any decrease in pollution capture due to natural and/or anthropogenic phenomenon.

**BMP Quality Standards**—specifications for the design, implementation, maintenance, and performance tracking of a particular BMP to ensure the estimated water quality benefits of an eligible project are achieved and allow for verification that the BMP is performing as described in an approved WQT plan.

**Credit**—a measured, modeled, or estimated unit of pollution reduction per unit of time that represents the specific pollutant reduction generated by a BMP at a specific location, as adjusted by attenuation/delivery factors, trading ratios, and baseline requirements as appropriate.

**Credit Certification**—the formal application and approval process for a potential credit-generating project. (Certification occurs after project review.)

**Credit-Generating Projects**—activities undertaken for the purpose of generating credits by point or nonpoint sources, including, but not limited to, installing advanced treatment technology, curtailing discharges, and BMPs.

**Credit Life**—the period from the date a credit is certified and becomes available for sale (i.e., effective date) to the date that the credit is no longer valid (i.e., expiration date).

**Credit Reserve Pool**—credits that are currently being generated and that have been reviewed, certified, registered, and are available for trade during the credit life.

**Eligible Project**—implementation of a pollutant management strategy; this may include nonpoint source land treatment BMPs, integrated coastal protection and restoration projects, as well as point source practices, modifications, or technology installation to reduce its

pollutant discharge by a particular amount for a particular period of time.

**Estimated Credit**—a credit for pollutant load reductions where treatment methods do not reasonably allow influent and effluent water quality to be measured. All credits that are not measured are estimated credits.

**Measured Credit**—a credit for pollutant reduction that can be directly monitored using water quality, including effluent samples.

**Point of Compliance**—for point sources discharging to surface waters, this is the location at which compliance shall be measured in accordance with limits specified in the Louisiana pollutant discharge elimination system (LPDES) permit.

**Project Review**—the process of confirming that a credit-generating project has completed the elements that ensure the project provides the proposed water quality improvement.

**Public Conservation Funds**—public funds that are targeted to support voluntary natural resource protection or restoration. Examples of public conservation funds include, but are not limited to, United States Department of Agriculture (USDA) cost share programs, United States Environmental Protection Agency (EPA) section 319 grant funds, United States Fish and Wildlife Service Partners for Fish and Wildlife Program funds, State Wildlife Grants, and state restoration grants. Public funds that are not considered public conservation funds include: public loans intended to be used for water quality infrastructure projects, such as Clean Water State Revolving Funds, USDA Rural Development funds, and utility sewer storm water and surface water management fees.

**Quantifiable**—the amount, rate, and characteristics of a discharge reduction that can be measured through an accurate, reliable, and replicable method, procedure, or set of calculations established by an applicable requirement or approved by the department.

**Registry**—a centralized and easily accessible public ledger wherein credit information and accompanying documentation is stored to document credit issuance, transfer, and holdings.

**Trading Area**—a geographic area where credits can be bought and sold.

**Trading Baseline**—the combined pollutant load reductions, site conditions, and/or BMP installation requirements that shall be met prior to trading.

**Trading Ratios**—numeric values used to adjust the credits generated for a seller and the credits available to meet the obligation of a buyer. Trading ratios account for factors such as, but not limited to, in-stream attenuation or uptake of a pollutant between the locations of the generator and the user of credits, different forms or types of a pollutant, risk of BMP failure, uncertainty as to BMP performance, and net environmental benefit.

**Water Quality Benefit**—the water quality improvement that can reasonably be attributable to BMPs (for point source-to-nonpoint source trades), wastewater treatment technologies, or practices (point source-to-point source trades) installed at a site.

**Water Quality Trading or Trade**—a transaction that involves the sale or other exchange, through a contractual agreement, of water quality credits generated from one



location that have been verified, certified, registered, and used at another location within a trading area.

*Water Quality Trading Plan*—a permittee-level document that contains the details of implementing a trade. The WQT plan may be based on an existing watershed trading framework. In the absence of a watershed trading framework, the WQT plan will include all specific details of the trading processes and performance standards.

*Watershed*—an area of land that drains all waters and rainfall to a common outlet such as a lake, river, stream, or other waters.

*Watershed Trading Framework*—watershed-level document that contains the specific details of implementing a trade as it applies to multiple permittees trading within a watershed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2074(B)(9).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:1464 (October 2019).

### **§2605. Eligibility**

A. Water quality trading authorized under these regulations may not be used to meet technology-based effluent limitations unless expressly authorized by the underlying effluent guidelines.

B. The department may authorize trading under the following scenarios.

1. Point source-to-point source trades are trades between two permitted point sources that require one permittee to reduce the discharge of pollutants below baseline levels required to generate credits, not to include surplus discharge capacity.

2. Point source-to-nonpoint source trades are trades between a permitted point source and a nonpoint source to reduce the discharge of nonpoint source pollutants below baseline levels required to generate credits.

3. Other types of trades may be approved by the department on a case-by-case basis.

C. Water quality parameters eligible for trading include:

1. nutrients (total nitrogen and total phosphorus), sediment (total dissolved solids, total suspended solids, and turbidity), biological oxygen demand, and temperature;

2. other parameters that may be approved by the department on a case-by-case basis, provided it does not cause or contribute to an exceedance of a water quality standard; and

3. persistent bioaccumulative toxics (PBTs) that have the potential to threaten public health will not be considered for trading.

D. Water Bodies Eligible for Trading

1. The department may authorize trading to maintain or improve water quality in non-impaired waters, including but not limited to, trading to offset new or increased discharges.

2. The department may authorize trading where water quality is limited but the waterbody is not subject to a TMDL, to improve water quality and make progress toward attaining water quality standards for impaired waters pending a TMDL, a TMDL alternative, or a state water quality management plan.

3. The department may authorize trading to meet the goals of a TMDL.

E. Credit-generating projects eligible for trading include:

1. installation or modification of facility operations or use of wastewater treatment technologies producing a net environmental benefit, beyond all applicable pollution control obligations, are eligible for point source credit generation;

2. land treatment projects that follow the United States Department of Agriculture-Natural Resources Conservation Service's (USDA-NRCS) Louisiana Field Office Technical Guide and do not conflict with any local, state, and federal requirements;

3. activities in the coastal area as defined by R.S. 49:214.2(4) that are not inconsistent with the Louisiana Coastal Master Plan or any local, state, and federal requirements;

4. other activities or BMP(s) as approved by the department on a case-by-case basis.

F. Regulatory Instruments to Authorize Trading

1. Permits. A WQT plan may be implemented in an LPDES permit in an effort to meet water quality based effluent requirements and/or achieve net reductions of a pollutant, as required by a TMDL or other management strategy. The conditions set forth in the WQT plan that meets the requirements of this Chapter shall be included as enforceable permit condition(s). The permittee is legally responsible for complying with all WQT plan requirements. Registering trades with the department or its designee does not affect the responsibility of a permittee to comply with the terms of its permit;

2. Compliance Schedules. A water quality trade may be implemented as part of a compliance schedule incorporated in a LPDES permit or a department order so long as the trade is consistent with the requirements of LAC 33:IX.1109.D.1, LAC 33:IX.2713, the Federal Water Pollution Control Act [33 U.S.C. §1251 et seq. and section 502(17)], and 40 C.F.R.122.47.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2074(B)(9).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:1465 (October 2019).

### **§2607. Requirements of a Water Quality Trading Plan**

A. If a previously authorized watershed trading framework exists (see LAC 33:IX.2609), and is applicable, a WQT plan shall be consistent with the watershed trading framework. A WQT plan may reference the watershed trading framework or components within the watershed trading framework.

B. Absent a watershed trading framework, a permit's WQT plan shall include the following components, as appropriate, and shall describe how they were derived:

1. the parameter(s) for trading that is being proposed, the number of credits needed, and any credit generation milestones, including a schedule for credit generation;

2. the trading area, including justification and how it is protective of the relevant designated uses;

3. trading baseline, including identification of any applicable requirements that apply within the trading area and shall be implemented to achieve baseline requirements (the WQT plan shall also identify sources of applicable regulation or law);

4. credit-generating projects, including quality and performance standards for those actions, and if necessary, additional criteria for project site design, maintenance, and stewardship;

5. description of credit quantification methodology, including how pre- and post-project conditions are modeled or measured, the assumptions and inputs used to derive the number of credits, and how baseline will be accounted for;

6. monitoring and reporting requirements, including parameters to be monitored, monitoring frequency, type of sample required, physical form of the report, and any other trading-related monitoring that may be appropriate in addition to Clean Water Act (CWA) monitoring requirements;

7. trading ratios, including description of the basis and assumptions supporting each trading ratio and whether it affects the size of the credit obligation or the number of credits generated from an individual trading project;

8. other mechanisms to mitigate risk of insufficient credit generation, including a reserve pool, insurance, performance bonding, etc. as well as justification for the selection and application of the given mechanisms;

9. credit life information, including when credits became valid, how long credits remain valid, and renewability of credits;

10. requirements for review of project site implementation and performance, and the entity that will perform the review, review frequency and content, and the performance standards that are evaluated; and

11. adaptive management (WQT plans shall include a description of how monitoring and other information may be used over time to adjust trading projects and under what circumstances).

C. A WQT plan must be public noticed and approved by LDEQ prior to inclusion in a LPDES application, application addendum, or request for permit modification. The conditions set forth in LAC 33:IX.3113 and 6521 for public notice and the public comment period shall apply to WQT plans submitted in accordance with these regulations. The department may amend the WQT plan or require amendments prior to approval.

D. WQT Plan Revision. An approved WQT plan shall be reviewed and revised whenever an LPDES permit is renewed or modified, or if there is a change in circumstances that affects a WQT plan element. Revised WQT plans shall be submitted to the department for review and approval, and shall be shared publicly for notice and comment. If approved, the department will incorporate the revised plan into the LPDES permit.

E. Annual Report. The permittee shall submit an annual report to the department that describes the WQT plan implementation and performance over the past year. The department shall make the annual report readily available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(9).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:1465 (October 2019).

#### **§2609. Watershed Trading Frameworks**

A. The department may establish watershed trading frameworks for one or more watersheds in any TMDL,

TMDL implementation plan, independent state water quality management plan, or by a separate agency order to describe details of watershed-level trading processes and standards.

B. A watershed trading framework shall specify those pollutants that are subject to trading, the trading area, regulations, and applicable TMDL allocations and implementation schedules that will be used to derive trading baseline within that watershed.

C. The department shall provide an opportunity for public notice and comment before approving a watershed trading framework.

D. A watershed trading framework is not required in order for the department to approve a WQT plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(9).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:1466 (October 2019).

#### **§2611. Requirements for Trading Baselines**

A. The requirements that comprise a trading baseline may be derived from:

1. technology-based effluent limit or water quality based effluent limits, whichever is more stringent, for point-point source trades that does not include surplus discharge capacity;

2. LPDES permit requirements;

3. requirements of a federal land management plan, or an agreement between a federal agency and the state;

4. tribal laws, rules, or permits;

5. projects completed as part of supplemental environmental projects or projects required under a permit;

6. regulatory requirements that a designated management agency establishes to comply with a department-issued TMDL, water quality management plan, or another water pollution control plan adopted by rule or issued by order under the department;

7. other federal, state, and local rules or laws that establish affirmative requirements for individual nonpoint sources; and

8. existing conditions where no TMDL/TMDL alternative exists.

B. Trading baselines shall:

1. include a specific base year that specifies when credit-generating projects may begin; and

2. specify any applicable pollution control requirements that may need to be implemented to meet baseline requirements prior to generating credits.

C. BMPs required to meet baseline requirements and BMPs used to generate additional water quality benefits and trade credits may be installed simultaneously.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(9).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:1466 (October 2019).

#### **§2613. Requirements for Trading Areas**

A. A trading area shall be defined ecologically where a pollution reduction in one part of the area can be linked to a pollutant being traded that results in a net water quality improvement at a point of compliance, which can be demonstrated using accepted and verified model or real-time data.

B. A trading area shall be defined to reduce the risk of localized or downstream water quality impairments or localized or downstream impacts.

C. Trading areas shall be developed, documented, and included in a WQT plan on a case-by-case basis.

D. Trading areas shall be consistent with any applicable TMDL or TMDL alternative.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(9).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:1466 (October 2019).

#### **§2615. Quantification of Benefits**

A. The permittee and creditors will quantify the water quality benefits of a trading project based on estimated values for specific types of BMPs, modeling specific to the watershed trading framework or project, and/or by measuring the water quality benefits of a trading project by direct monitoring of pollutant reductions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(9).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 45:1467 (October 2019).

#### **§2617. Requirements for Trading Ratios**

A. WQT shall include one or more trading ratios that apply to credits. Ratio components and underlying assumptions shall be clearly documented in the WQT plan.

B. Trading ratios may be used to account for variables associated with a trading project including, but not limited to the following:

1. taking into account risk of project failure;
2. BMP effectiveness;
3. measurement uncertainty;
4. in-stream attenuation of a pollutant between the locations of the generator and the user of credits;
5. temporal variability;
6. pollutant equivalency; and
7. credit retirement for environmental benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(9).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:1467 (October 2019).

#### **§2619. Requirements for Credits**

A. The department may authorize two types of credits dependent on the credit baseline.

1. Long-term credits shall be available above the credit baseline so long as the project that generates the credit is maintained and meets performance standards.

2. Interim credits shall be available for nonpoint sources to reach the load allocation of a TMDL for up to five years.

B. Credits used for compliance with an LPDES permit shall be generated within the trading area of an approved WQT plan.

C. If trading is anticipated, an approved WQT plan shall be submitted as part of a permit application or department action. Effluent limitations, BMPs, and other requirements from an approved WQT plan shall be included as part of the permit conditions to make the terms of the trade enforceable.

D. A credit may not be used to meet a regulatory obligation by more than one entity at any given time.

E. Credit-generating projects shall go through project review, be in place, and be producing water quality benefits during the same time period(s) defined for compliance in an LPDES permit or other regulatory instrument.

F. Credits may be generated and used as long as pollution controls or practices are maintained and project review confirms that they are functioning as expected.

G. Credits shall be calculated using best available science, tools, and methodologies, including adjustment by (an) appropriate trading ratio(s).

H. Credit-generating projects may not include water quality benefits obtained with public conservation funds. Unless otherwise prohibited by the terms and conditions of the public funded project, funding in part by public conservation funds shall be prorated based on the ratio of nonpublic funding used to generate credits.

I. Credits may be generated from BMPs installed before the department approves a WQT plan.

J. Credits may be purchased for the purposes of meeting compliance obligations, restoration, and protection and maintenance of water quality.

K. The acquisition of credits for compliance purposes does not eliminate any requirement to comply with local, state, and federal water quality requirements.

L. Credits shall be purchased prior to any compliance date in the permit in sufficient number to cover even the worst case scenarios for unexpected environmental conditions (e.g., low river flows) or discharges.

M. LPDES permits may contain conditions on the use of certified credits, including:

1. the extent that the requirement of the permit may be satisfied with certified credits;
2. when and from what source(s) certified credits may be acquired by the permittee; and
3. requiring periodic monitoring of installed BMPs to verify credit generation/water quality improvements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(9).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:1467 (October 2019).

Herman Robinson  
General Counsel

1910#026

### **RULE**

#### **Office of the Governor Board of Architectural Examiners**

##### **Registration Information, Licenses, and Renewal Procedure (LAC 46:I.1101, 1105, and 1301)**

The Board of Architectural Examiners, in accordance with the provisions of R.S. 49:950 et seq., and through the authority granted in R.S. 37:144(C), has amended the title to Chapter 11 of its rules, LAC 46:I.1101 pertaining to registration information, LAC 46:I.1105 pertaining to licenses, and LAC 46:I.1301 pertaining to its renewal procedures.

The amended Rule makes technical changes and clarifications; amend the title to Chapter 11 of its rules; increase the fees for the initial registration of in-state candidates for licensure; increase the renewal and delinquency fees for in-state and out of state architects; establish a fee for the replacement of a lost or destroyed license, and direct professional architectural corporations, architectural-engineering corporations, and architectural firms to the applicable rules which govern their registration and renewal of their certificates of authority. This Rule is hereby adopted on the day of promulgation.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part I. Architects**

#### **Chapter 11. Licenses**

##### **§1101. Registration Information**

A. To obtain information regarding registration to practice architecture in Louisiana, an individual should visit the board website, [www.lsbae.com](http://www.lsbae.com). Effective November 1, 2019, an in-state candidate shall be charged a fee of \$90, and an out of state candidate shall be charged a fee of \$150 for the issuance of his or her initial license.

B. The rules for registering and obtaining initial certificates of authority for professional architectural corporations, architectural-engineering corporations, and architectural firms are set forth in Chapter 17 infra.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:562 (April 2003), amended LR 45:1468 (October 2019).

##### **§1105. Licenses**

A. Each holder of a license shall maintain the license in his or her principal office or place of business in this state.

B. A replacement license will be issued to a registrant to replace one lost or destroyed, provided the current annual registration renewal is in effect, the registrant makes proper request and submits an acceptable explanation of the loss or destruction of the original license, and the registrant pays a fee of \$30.

C. A registrant retired from practice who has either practiced architecture for 30 years or more or who is 65 years of age or older may request emeritus status. Only a registrant who is fully and completely retired from the practice of architecture may request emeritus status. Any registrant who is presently receiving or who anticipates receiving in the future any salary, income, fees or other compensation (other than retirement income) from an architectural client, architectural firm, architect, design professional, or any other person for the practice of architecture is ineligible for emeritus status. The annual renewal fee for an approved emeritus registrant is \$5. Revocation and reinstatement rules apply to an emeritus registrant, just as they do to any other registrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:563 (April 2003), amended LR 45:1468 (October 2019).

#### **Chapter 13. Administration**

##### **§1301. Renewal Procedure**

A. A license for an individual architect shall expire and become invalid on December 31 of each year. An individual architect who desires to continue his or her license in force shall be required annually to renew same.

B. It is the responsibility of the individual architect to timely renew his or her license.

C. Prior to December 31 of each year, architects shall renew their licenses in accordance with the instructions set forth on the board website, [www.lsbae.com](http://www.lsbae.com). Effective November 1, 2019, the renewal fees shall be as follows: for an individual architect domiciled in Louisiana - \$90; for an individual architect domiciled outside Louisiana - \$175. Upon renewal, the architect may download from the board website a copy of his or her renewal license.

D. The failure to renew a license timely shall not deprive the architect of the right to renew thereafter. Effective November 1, 2019, the delinquent fees shall be as follows: an individual architect domiciled in Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$110. An individual architect domiciled outside Louisiana who transmits his renewal form and fee to the board subsequent to December 31 in the year when such renewal fee first became due shall be required to pay a delinquent fee of \$200. The delinquent fee shall be in addition to the renewal fee set forth in §1301.C.

E. The rules for renewing certificates of authority of professional architectural corporations, architectural-engineering corporations, and architectural firms are set forth in Chapter 17 infra.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-145.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:563 (April 2003); amended LR 35:2754 (December 2009), LR 36:1780 (August 2010), LR 45:1468 (October 2019).

Katherine E. Hillegas  
Executive Director

1910#042

#### **RULE**

#### **Office of the Governor Board of Professional Geoscientists**

##### **Use of Seals (LAC 46:LXII.1501)**

The Louisiana Board of Professional Geoscientists hereby gives notice that, pursuant to R.S. 37:711.8.C (1), it amends LAC 46:LXII.1501 in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and the Louisiana Professional Geoscience Practice Act, R.S. 37:711.1 et seq. This Rule is hereby adopted on the day of promulgation.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part LXII. Professional Geoscientists**

**Chapter 15. Seal**

**§1501. Use of Seals**

A. License holders must obtain a seal as per R.S. 37:711.22.

B. The following rules for the use of seals to identify work performed by a professional geoscientist shall be binding on every licensee.

1. Seal Possession

a. Each professional geoscientist, upon licensure, shall obtain an official seal.

i. In the case of a temporary permit issued to a licensee of another jurisdiction, the licensee shall affix the seal of his/her jurisdiction of licensure, his/her signature, the date of execution, and his/her Louisiana temporary permit number to all of his/her work.

2. Seal Responsibility

a. The application of the licensee's seal, signature, and date shall constitute certification that the work thereon was done by the licensee or under his/her responsible charge. The licensee shall be personally and professionally responsible and accountable for the care, custody, control and use of his/her seal, professional signature and identification. A seal which has been lost, misplaced or stolen shall, upon discovery of its loss, be reported immediately to the board by the licensee. The board may invalidate the licensure number of said licensee, if it deems this necessary, and issue another licensure number to the licensee.

3. Seal Use

a. The seal, signature, and date on a document constitute a certification that the document was prepared by the licensee or under his direct supervision. A licensee shall affix an unobscured seal, original signature, and date of signature to the original documents contained in the final version of any geoscience document as outlined below:

i. Each sheet of maps, cross sections, drawings, descriptions, charts, graphs, reports, documents, or other records of geoscientific practice shall be signed, sealed, and dated by the licensee who prepares it, by the licensee who provides direct supervisory control over its preparation, or by the licensee who reviews it in sufficient depth to fully coordinate and assume responsibility for documents prepared by another licensee.

ii. Where multiple sheets are bound together in one volume representing a singular geoscience document, report, or other record, the licensee who prepared such volume, under whose direction and control such volume was prepared, or who reviews it in sufficient depth to fully coordinate and assume responsibility thereof, shall sign, seal, and date a sheet that clearly identifies all of the other sheets included as part of the bound volume.

b. A geoscientific report, document, or other record is any document that provides an interpretation or analysis of geoscience data, including but not limited to:

i. cross sections displaying geoscience data, including geological and/or geophysical parameters;

ii. contoured drawings, such as potentiometric surface maps, isopleth maps, and subsurface data;  
iii. aquifer test analyses, including yield, transmissivity, or specific storage;  
iv. groundwater modeling;  
v. geoscientific surface resource and availability studies;  
vi. geoscientific components of groundwater management plans;  
vii. soil boring logs and well logs;  
viii. soil, lithology, and/or geophysical maps;  
ix. interpretation of geophysical surveys; and  
x. interpretations, conclusions, and recommendations for further action(s) based on these data.

c. Preliminary or draft documents do not require a PG stamp; however, each sheet or page of a preliminary or draft document shall be clearly and prominently marked "preliminary" or "draft".

d. In accordance with the Standards for Environmental Site Assessments (ESA) published by the American Society for Testing and Materials (ASTM), Phase I ESAs do not require a PG stamp, unless one or more geoscientific documents, findings, or conclusions is incorporated into the Phase I ESA. However, due to the nature of subsurface work and interpretations, Phase II and III ESAs require a PG stamp in accordance with the above requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:711.8.C(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Professional Geoscientists, LR 41:2348 (November 2015), amended LR 45:1469 (October 2019).

William Finley  
Chairman

1910#050

**RULE**

**Department of Health**  
**Board of Medical Examiners**

Physician Licensure and Certification;  
Fellowship Training Permit  
(LAC 46:XLV.405 and 411)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et. seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (Board) by the Louisiana Medical Practice Act, R.S. 37:1270, R.S. 37:1275, R.S. 37:1277, R.S. 37:1281 and R.S. 37:1285, the Board has amended its rules governing short-term permits to provide for a permit that would accommodate fellowship training that is not accredited by the American Council on Graduate Medical Education (ACGME) of the American Medical Association, the American Osteopathic Association (AOA) or the Commission on Dental Accreditation (CODA) of the American Dental Association. The amendments are set forth below. This Rule is hereby adopted on the day of promulgation.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part XLV. Medical Professions**

**Subpart 2. Licensure and Certification**

**Chapter 3. Physicians**

**Subchapter H. Restricted Licensure, Permits**

**§405. Short-Term Residency Permit; Fellowship Training Permit**

A. - D. ...

E. Fellowship Training Permit; Qualifications. The board may, in its discretion, issue a temporary permit for the purpose of participating in unaccredited postgraduate fellowship training, at a minimum level of postgraduate year four (PGY-4), that is conducted by a Louisiana medical school or major teaching hospital, as defined herein, provided such school or major teaching hospital sponsors a fully accredited ACGME residency training program in the same specialty in which the fellowship training is offered. To qualify for such a permit an applicant:

1. shall:

a. have completed a residency training program accredited by the ACGME, AOA or the Commission on Dental Accreditation (CODA) of the American Dental Association in the same specialty as the fellowship; and

b. possess all of the qualifications for licensing prescribed by §311A.1-6 of these rules;

2. present, or cause to be presented, to the board:

a. a completed application in a manner specified by the board, together with the fees prescribed by Chapter 1 of these rules;

b. satisfactory documentation that the applicant possesses the qualifications required by this Section; and

c. a letter from the program director under whom he or she will be serving in the fellowship, describing the capacity in which the applicant will be serving and the inclusive dates of such service.

3. Restrictions, Limitations. The holder of a permit issued under this Section shall not engage in the practice of medicine in any respect in the state of Louisiana, or receive medical educational or training, other than within the fellowship training program for which he or she is approved by the board.

4. Term. A permit issued under this Section shall expire, and thereby become null and void and to no effect on the date specified by the permit or twelve months from the date of issuance, whichever is the shorter period. Such permit shall also expire on any date that the permittee's appointment to the designated fellowship training is terminated.

5. Renewal. A fellowship training permit which has expired may, at the board's discretion, be renewed or reissued for not more than one successive twelve month period commencing without interruption immediately following the initial expiring permit, provided all requirements prerequisite to initial permit issuance have been met to the board's satisfaction.

6. Revocation. A fellowship training permit may be revoked by the board:

a. for any of the causes specified by R.S. 37:1285A;

b. upon a finding by the board that the permittee has failed to maintain, or did not possess at the time of

application, any of the qualifications prerequisite to eligibility for a permit as prescribed by this Subsection; or

c. upon a finding by the board that the permittee has exceeded the scope of authority accorded by the permit or otherwise violated any of the terms, conditions, restrictions, or limitations prescribed by this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1275, R.S. 37:1277, R.S. 37:1281 and R.S. 37:1285.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:913 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:521 (June 1990), LR 27:845 (June 2001), LR 33:1344 (July 2007), amended by the Department of Health, Board of Medical Examiners, LR 45:1470 (October 2019).

**§411. Graduate Education Temporary Permit/Short-Term IMG Training Permit; Fellowship Training Permit**

A. - K.2. ...

L. Fellowship Training Permit; Qualifications. The board may, in its discretion, issue a temporary permit for the purpose of participating in unaccredited postgraduate fellowship training at a minimum level of postgraduate year four (PGY-4), that is conducted by a Louisiana medical school or major teaching hospital, as defined herein, provided such school or major teaching hospital sponsors a fully accredited ACGME residency training program in the same specialty in which the fellowship is offered. To qualify for such a permit an applicant:

1. shall:

a. have completed a residency training program accredited by the ACGME, AOA or the Commission on Dental Accreditation (CODA) of the American Dental Association in the same specialty as the fellowship; and

b. possess all of the qualifications for licensing prescribed by §323 of these rules;

2. present, or cause to be presented, to the board:

a. a completed application in a manner specified by the board, together with the fees prescribed by Chapter 1 of these rules;

b. satisfactory documentation that the applicant possesses the qualifications required by this Section; and

c. a letter from the program director under whom he or she will be serving in the fellowship, describing the capacity in which the applicant will be serving and the inclusive dates of such service.

3. Restrictions, Limitations. The holder of a permit issued under this Section shall not engage in the practice of medicine in any respect in the state of Louisiana, or receive medical education or training, other than within the fellowship training program for which he or she is approved by the board.

4. Term. A permit issued under this Section shall expire, and thereby become null and void and to no effect on the date specified by the permit or twelve months from the date of issuance, whichever is the shorter period. Such permit shall also expire on any date that the permittee's appointment to the designated fellowship training program is terminated.

5. Renewal. A fellowship training permit which has expired may, at the board's discretion, be renewed or reissued for not more than one successive twelve month

period commencing without interruption immediately following the initial expiring permit, provided all requirements prerequisite to initial permit issuance have been met to the board's satisfaction.

6. Revocation. A fellowship training permit may be revoked by the board:

- a. for any of the causes specified by R.S. 37:1285A;
- b. upon a finding by the board that the permittee has failed to maintain, or did not possess at the time of application, any of the qualifications prerequisite to eligibility for a permit as prescribed by this Subsection; or
- c. upon a finding by the board that the permittee has exceeded the scope of authority accorded by the permit or otherwise violated any of the terms, conditions, restrictions, or limitations prescribed by this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A), 37:1270(B)(6), 37:1275, 37:1277 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:467 (May 1995), amended LR 27:846 (June 2001), LR 35:465 (March 2009), amended by the Department of Health, Board of Medical Examiners, LR 45:1470 (October 2019).

Vincent A. Culotta, Jr., M.D.  
Executive Director

1910#012

## RULE

### Department of Health Board of Medical Examiners

#### Physician Practice; Marijuana for Therapeutic Use by Patients Suffering From a Debilitating Medical Condition (LAC 46:XLV.Chapter 77)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (Board) by the Louisiana Medical Practice Act, R.S. 37:1270, and Louisiana law governing therapeutic marijuana, R.S. 40:1046, the Board has amended its rules governing physicians who diagnose their patients with a debilitating medical condition for which therapeutic marijuana may be recommended, LAC 46:XLV Chapter 77. The amendments are set forth below. This Rule is hereby adopted on the day of promulgation.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLV. Medical Professions

##### Subpart 3. Practice

#### Chapter 77. Marijuana for Therapeutic Use by Patients Suffering from a Debilitating Condition

##### Subchapter A. General Provisions

#### §7705. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified.

\* \* \*

*Bona-Fide Physician-Patient Relationship*—a relationship in which a physician:

a. has conducted at least one in-person examination at a physical practice location, or another location identified in his or her registration under this Chapter, in this state;

b. - c. ...

*Consult or Consultation*—as used in this Chapter, means advice or opinions provided to a physician registered with the board to recommend therapeutic marijuana, by a pediatric subspecialist regarding a patient's diagnosis of ASD and treatment with therapeutic marijuana. The consultation may be obtained in person or by telephone, telemedicine or electronic mail, provided it affords for medical/health information privacy and security. The request for and report of the consultant must be documented in the patient record of the requesting physician, who shall remain personally responsible to the patient for the primary diagnosis and any treatment provided. If the consultant's advice or opinions are not accepted by the requesting physician, the medical record should document the consultation and the reason(s) why it was not accepted.

\* \* \*

*Debilitating Medical Condition* (also referred to in this Chapter as a *Qualifying Medical Condition*)—means any of the following:

- a. cancer;
- b. glaucoma;
- c. Parkinson's disease;
- d. positive status for human immunodeficiency virus;
- e. acquired immune deficiency syndrome;
- f. cachexia or wasting syndrome;
- g. seizure disorders;
- h. epilepsy;
- i. spasticity;
- j. severe muscle spasms;
- k. intractable pain;
- l. Crohn's disease;
- m. muscular dystrophy;
- n. multiple sclerosis;
- o. post-traumatic stress disorder;
- p. any of the following conditions associated with autism spectrum disorder (ASD); provided, however, that prior to recommending therapeutic marijuana for any condition associated with ASD to a patient under eighteen years of age, the physician shall consult with a pediatric subspecialist:
  - i. repetitive or self-stimulatory behavior of such severity that the physical health of the person with autism is jeopardized;
  - ii. avoidance of others or inability to communicate of such severity that the physical health of the person with autism is jeopardized;
  - iii. self-injuring behavior;
  - iv. physically aggressive or destructive behavior;
- q. and such other diseases or conditions that may subsequently be identified as a debilitating medical condition by amendment of R.S. 40:1046 or other state law.

*Intractable Pain*—for purposes of this Chapter, means a pain state in which the course of the pain cannot be removed or otherwise treated with the consent of the patient and which, in the generally accepted course of medical practice,

no relief or cure of the cause of the pain is possible, or none has been found after reasonable efforts. It is pain so chronic and severe as to otherwise warrant an opiate prescription.

\* \* \*

**Pediatric Subspecialist**—an individual licensed to practice medicine in any state in the United States who provides care to patients with ASD.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:319 (February 2017), LR 45:1471 (October 2019).

## **Subchapter B. Prohibitions and Exceptions**

### **§7707. Prohibitions**

#### **A. No physician shall:**

1. ...
2. Repealed.
3. - 4. ...
5. if registered with the board under this Chapter, have an ownership or investment interest established through debt, equity, or other means, whether held directly or indirectly by a physician or a member of a physician's immediate family, nor any contract or other arrangement to provide goods or services, in or with a licensed therapeutic marijuana pharmacy or a producer licensed by the Louisiana Department of Agriculture and Forestry to produce marijuana.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 45:1472 (October 2019).

### **§7709. Exceptions**

#### **A. This Chapter is subject to the following exceptions.**

##### **1. - 2.b. ...**

##### **B. Repealed.**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:319 (February 2017), LR 45:1472 (October 2019).

## **Subchapter D. Marijuana for Therapeutic Purposes, Limitations, Access to Records**

### **§7717. Use of Marijuana for Therapeutic Purposes, Limitations**

**A. Required Prior Conditions.** Nothing in this Chapter requires that a physician issue a written request or recommendation for marijuana. However, if a physician determines it medically appropriate to do so to treat or alleviate symptoms of a patient's qualifying medical condition the physician shall comply with the following rules.

#### **1. - 3. ...**

**4. Treatment Plan.** An individualized treatment plan shall be formulated and documented in the patient's medical record which includes medical justification for the use of marijuana. In addition, the plan shall include documentation:

##### **a. - c. ...**

d. of compliance with the board's rules on chronic or intractable pain, set forth in 6915-6923 of this Part, if therapeutic marijuana is utilized for the treatment of non-cancer-related chronic or intractable pain.

#### **5. ...**

**6. Continued Use of Marijuana.** The physician shall monitor the patient's progress at such intervals as the physician determines appropriate to assess the benefits of treatment, assure the therapeutic use of marijuana remains indicated, and evaluate the patient's progress toward treatment objectives. During each visit, attention shall be given to the possibility that marijuana use is not masking an acute or treatable progressive condition or that such use will lead to a worsening of the patient's condition. Indications of substance abuse or diversion should also be evaluated.

#### **A.7. - B.3. ...**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2633 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:319 (February 2017), LR 45:1472 (October 2019).

### **§7721. Form of Written Request or Recommendation**

#### **A. - B. ...**

**C. Manner of Transmission.** A written request or recommendation for therapeutic marijuana shall be transmitted by the physician or physician's designee to a licensed therapeutic marijuana pharmacy by facsimile or in another electronic manner that provides for medical/health information privacy and security and is in compliance with rules promulgated by the Louisiana Board of Pharmacy. The pharmacy shall be selected by the patient from a list of licensed therapeutic marijuana pharmacies.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2634 (December 2015), amended by the Department of Health, Board of Medical Examiners LR 43:320 (February 2017), LR 45:1472 (October 2019).

### **§7729. Appendix—Form for Recommendation for Therapeutic Marijuana**

**—THIS IS NOT A PRESCRIPTION—**

#### **PHYSICIAN RECOMMENDATION FORM**

\* \* \*

#### **Section C. Patient's Debilitating Medical Condition(s) (Required)**

This patient has been diagnosed with the following debilitating medical condition: (A minimum of one condition must be checked)	
<input type="checkbox"/> Acquired Immune Deficiency Syndrome	<input type="checkbox"/> Intractable Pain
<input type="checkbox"/> Cachexia or Wasting Syndrome	<input type="checkbox"/> Post-Traumatic Stress Disorder
<input type="checkbox"/> Cancer	<input type="checkbox"/> Any of the following conditions associated with autism spectrum disorder:
<input type="checkbox"/> Crohn's Disease	<input type="checkbox"/> (i) repetitive or self-stimulatory behavior of such severity that the health of the person with autism is jeopardized;
<input type="checkbox"/> Epilepsy	<input type="checkbox"/> (ii) avoidance of others or inability to communicate of such severity that the physical health of the person with autism is jeopardized;
<input type="checkbox"/> Multiple Sclerosis	<input type="checkbox"/> (iii) self-injuring behavior;
<input type="checkbox"/> Muscular Dystrophy	<input type="checkbox"/> (iv) physically aggressive or destructive behavior.
<input type="checkbox"/> Positive Status for Human Immunodeficiency Virus	
<input type="checkbox"/> Spasticity	
<input type="checkbox"/> Seizure Disorders	
<input type="checkbox"/> Glaucoma	
<input type="checkbox"/> Parkinson's Disease	
<input type="checkbox"/> Severe Muscle Spasms	



\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, and R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2635 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:320 (February 2017), LR 45:1472 (October 2019).

Vincent A. Culotta, Jr., M.D.  
Executive Director

1910#011

## RULE

### Department of Health Board of Pharmacy

#### Marijuana Pharmacies (LAC 46:LIII.2441, 2443, and 2457)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Pharmacy Practice Act, R.S. 37:1161 et seq., the Louisiana Board of Pharmacy has amended §2441, §2443 and §2457 of its rules for marijuana pharmacies. The amendments for §2441 will amend the definition of advertising so as to permit the dissemination of educational information about marijuana products; it will also update the definition of marijuana to conform to the current statutory definition. The amendments for §2443 will repeal the limits on the amount of tetrahydrocannabinol (THC) in the dosage form and the packaging for marijuana products, and will also require the inclusion of a product identification code on the label of a marijuana product. The amendments for §2457 will remove the requirements for the physician recommendation to exist in written form and will add the requirement for the patient's debilitating medical condition to be recorded on the recommendation. This Rule is hereby adopted on the day of promulgation.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LIII. Pharmacists

#### Chapter 24. Limited Service Providers

#### Subchapter E. Marijuana Pharmacy

##### §2441. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section:

\* \* \*

*Advertisement*—all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of marijuana, excluding information of an educational nature designed to inform citizens of the nature and form of the state's therapeutic marijuana program and its legally permitted products.

\* \* \*

*Marijuana*—all parts of plants of the genus *Cannabis*, whether growing or not, the seeds thereof, the resin extracted from any part of such plant, and every compound,

manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination, or cannabidiol when contained in a drug product approved by the United States Food and Drug Administration.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1538 (August 2017), amended LR 45:1473 (October 2019).

##### §2443. Marijuana Products

A. - C.3. ...

D. Packaging and Labeling Requirements

1. Packaging.

a. - a.iii. ...

b. Repealed.

c. Repealed.

d. - e.v. ...

2. Labeling

a. - a.vii. ...

viii. a product identification code registered with the board.

D.2.b. - E.4.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1540 (August 2017), amended LR 45:1473 (October 2019).

##### §2457. Standards of Practice

A. - C.2.a. ...

D. Recordkeeping Requirements

1. Prescription/recommendation/order (hereinafter, "request") for Marijuana

a. - c. Repealed.

d. ...

e. The request shall identify the physician issuing the request as well as the person and the person's debilitating medical condition for which the marijuana product is intended.

2. - 6. ...

E. Professional Practice Standards

1. ...

2. Labeling of Marijuana Product Dispensed

a. - b.viii. ...

ix. Directions for use of the product;

2.b.x. - 5.e.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1550 (August 2017), amended LR 45:1473 (October 2019).

Malcolm J Broussard  
Executive Director

1910#024

## RULE

### Department of Health Bureau of Health Services Financing

#### Hospital Licensing Standards (LAC 48:I.Chapter 93)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.Chapter 93 as authorized by R.S. 36:254 and R.S. 40:2100-2115. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq. This Rule is hereby adopted on the day of promulgation.

#### Title 48

#### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 3. Licensing

#### Chapter 93. Hospitals

#### Subchapter A. General Provisions

#### §9301. Purpose

A. The purpose of the hospital laws, rules and regulations is to provide for the development, establishment and enforcement of standards for the care of individuals in hospitals and for the construction, maintenance and operation of hospitals which shall promote safe and adequate treatment of individuals in hospitals.

1. - 2.i. Repealed.

B. A hospital shall be licensed in accordance with state law, rules and regulations adopted and established by the state agency responsible for the licensing of hospitals.

#### C. Primarily Engaged

1. Hospitals shall be primarily engaged, as defined by this Rule and determined by the Department of Health, in providing inpatient hospital services to inpatients, by or under the supervision of licensed physicians. Inpatient hospital services are services defined in this licensing rule and are provided to inpatients of the hospital as one of the following:

a. diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons; or

b. rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

2. Licensed hospitals designated as psychiatric hospitals and critical access hospitals as defined by the Code of Federal Regulations, and licensed hospitals designated as rural hospitals as defined by R.S. 40:1189.3, are not subject to the primarily engaged requirements.

3. In reaching a determination as to whether or not an entity is primarily engaged in providing inpatient hospital services to inpatients of a hospital, the Department of Health will evaluate the total facility operations and consider multiple factors, subject to paragraph C.4 below.

a. Total Facility Operations. In evaluating the total facility operations, the department will review the actual provision of care and services to two or more inpatients, and the effects of that care, to assess whether the care provided meets the needs of individual patients by way of patient outcomes.

b. Multiple Factors. The factors that the department will consider include, but are not limited to:

- i. the average daily census (ADC) of the main hospital and/or any off-site campus(es);
- ii. the average length of stay (ALOS) of patients at the main hospital and/or any off-site campus(es);
- iii. the number of off-site campus outpatient locations operated by the entity;
- iv. the number of provider-based emergency departments for the entity;
- v. the number of inpatient beds related to the size of the entity and the scope of the services offered;
- vi. the volume of outpatient surgical procedures compared to the inpatient surgical procedures (if surgical services are provided);
- vii. staffing patterns; and
- viii. patterns of ADC by day of the week.

4. Notwithstanding any other provision of this rule, an entity shall not be considered to be primarily engaged in providing inpatient hospital services to inpatients of a hospital if a main hospital or a main hospital's off-site campus(es) has an ADC of less than two, or an average length of stay of less than two. For purposes of determining whether a main hospital and its off-site campus(es) are primarily engaged, the ADC and the average length of stay shall be made independently for each entity.

5. Hospitals are not required to have a specific inpatient bed to outpatient bed ratio in order to meet the definition of primarily engaged.

a. If the hospital has an emergency department (ED), the number of hospital inpatient beds shall be greater than the number of ED beds, with a ratio of not less than 2:1.

D. Except as otherwise provided herein, hospitals shall provide directly or under arrangements the following professional departments, services, facilities and functions which are essential to establish whether a facility is primarily engaged in providing inpatient hospital services:

1. organization and general services;
2. nursing services;
3. pharmaceutical services;
4. radiological services;
5. laboratory services;
6. nutritional and therapeutic dietetic services;
7. medical record services;
8. quality assessment and improvement;
9. physical environment;
10. infection control;
11. respiratory care services.

E. Except as otherwise provided herein, hospitals may provide the following optional services directly or under arrangements:

1. surgical services;
2. anesthesia services;
3. nuclear medicine services;
4. outpatient services;
5. rehabilitation services;
6. psychiatric services;
7. obstetrical and newborn services;
8. pediatric services;
9. emergency services.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246

(April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2399 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1474 (October 2019).

### §9303. Definitions

A. ...

\*\*\*

*Average Daily Census (ADC)*—calculated by adding the midnight daily census of the main hospital or its off-site campus(es), independent of one another, for each day of the 12-month period and dividing the total number by the number of days in the year. In calculating the ADC for purposes of determining whether an entity meets the requirements of primarily engaged, LDH may utilize a period of between three months and 12 months.

*Average Length of Stay (ALOS)*—the average of the number of inpatient days a person is in the main hospital or its off-site campus(es). ALOS is calculated by dividing the total inpatient days by the total discharges during a specified period of time, which results in an average number of days in the main hospital or its off-site campus(es) for each person admitted. In calculating ALOS, LDH may utilize a period of between three months and 12 months. For purposes of calculating the ALOS of the main hospital or its off-site campus(es), each facility shall be considered an independent entity.

\*\*\*

*Department*—Louisiana Department of Health.

*Food Delivery Services*—the transportation of the nutritional and therapeutic dietetic services by a food management company that is delivered to the hospital and served to the patients of the hospital.

*Food Management Company*—an off-site vendor who provides nutritional and therapeutic dietetic services to the hospital through a contractual agreement and that is required to meet the same standards for food and dietetic services as provided by the hospital directly.

\*\*\*

*Hospital*—any institution, place, building, or agency, public or private, whether for profit or not, maintaining and operating facilities, 24 hours a day, seven days a week, having a minimum of 10 licensed beds, having staff and equipment sufficient to meet patient needs, and providing hospital services, care and treatment for injured, disabled or sick persons who are admitted with the expectation that he or she will require hospital care that is expected to span at least two midnights. Except as otherwise noted in these licensing regulations, a hospital shall be primarily engaged in providing inpatient services to inpatients, by or under the supervision of licensed physicians. The term hospital does not include the following:

a. - b. ...

c. persons, schools, institutions, or organizations engaged in the care and treatment of children with intellectual disabilities and which are required to be licensed by the provisions of the Developmental Disability Law, R.S. 28:451.1 et seq.;

d. - e. ...

f. infirmaries or clinics maintained solely by any college or university exclusively for treatment of faculty, students and employees; or

\*\*\*

g. an urgent care clinic.

NOTE: Free standing emergency departments (or an entity that holds itself out to the public mainly as a free standing emergency department) shall not be licensed as a hospital.

\*\*\*

*Inpatient*—a person who admitted to a hospital with the status of inpatient for purposes of receiving hospital services with the expectation that he/she will require hospital care expected to span at least two nights and occupy a bed even though it is later determined that the patient can be discharged or transferred to another hospital and not actually use a hospital bed overnight. Persons in hospital observation status are not inpatients.

*Inpatient Hospital Services or Inpatient Service*—includes, but is not limited to, the following services provided to inpatients of the hospital as either: diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons; or rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

a. bed and board;

b. 24-hour nursing services and other related services;

c. use of hospital facilities;

d. medical social services;

e. drugs, biologicals, supplies, appliances, and equipment;

f. certain other diagnostic or therapeutic services;

g. medical or surgical services provided by certain interns or residents-in-training; and

h. transportation services, including transport by ambulance.

\*\*\*

*Licensed Practical Nurse (LPN)*—a person licensed to practice practical nursing by the Louisiana State Board of Practical Nurse Examiners and is practicing within his/her scope of practice, training, experience, and competency.

\*\*\*

*Nutritional and Therapeutic Dietetic Services*—the provision of a nourishing, palatable, well-balanced diet that meets the patient's daily nutritional and special dietary needs in accordance with the licensed practitioner's prescribed plan of care, and taking into consideration the preferences of each patient.

\*\*\*

*Office of the Secretary*—office of the person serving as the Secretary of the Department of Health.

\*\*\*

*Primarily Engaged*—a hospital is directly providing inpatient hospital services to inpatients, by or under the supervision of licensed physicians. Inpatient hospital services are services defined in this licensing rule and are provided to inpatients of the hospital as one of the following:

a. diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons; or

b. rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

Note: Having the capacity or potential to provide inpatient hospital services is not the equivalent of actually providing such care.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2400 (November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:513 (March 2010), LR 37:3028 (October 2011), LR 38:1413 (June 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1475 (October 2019).

## **Subchapter G. Nutritional and Therapeutic Dietetic Services**

### **§9377. General Provisions**

A. There shall be an organized dietary service that provides nutritional and therapeutic dietetic services to patients. All hospital contracts or arrangements for off-site food preparation shall be with a provider who is licensed by the department's healthcare division or operating under the authority of the federal government.

B. ...

1. The hospital shall provide written notices to the department's Health Standards Section and to the department's Office of Public Health within 10 calendar days of the effective date of the contract.

2. The outside food management company must possess a valid Department of Health, Office of Public Health retail food permit and meet all of the requirements for operating a retail food establishment that serves a highly susceptible population, in accordance with the most current version of the provisions found in Title 51, *Public Health—Sanitary Code*.

3. Either the hospital or the food management company shall employ or contract with a registered dietitian who serves the hospital on a full-time, part-time, or consultant basis to ensure that the nutritional needs of the patients are met in accordance with the licensed practitioners' orders and acceptable standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2413 (November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1413 (June 2012, amended by the Department of Health, Bureau of Health Services Financing, LR 45:1476 (October 2019).

### **§9379. Organization and Staffing**

A. Nutritional and therapeutic dietetic services shall be under the supervision of a registered dietitian, licensed to practice in Louisiana, who is employed either full time, part time or on a consulting basis. If the registered dietitian is not full time, there shall be a full time dietary manager.

B. - B.4.a. ...

C. The registered dietitian shall be responsible for assuring that quality nutritional and therapeutic dietetic services are provided to patients. This shall be accomplished by providing and supervising the nutritional aspects of patient care including nutritional screening, nutritional assessments of patients at nutritional risk, patient education related to nutritional intake and diet therapy, and recording information in the medical record regarding the nutritional status and care of the patient and the patient's response to the therapeutic diet.

D. The hospital shall employ sufficient support personnel, competent in their respective duties, to carry out the function of the dietary service adequate to meet the nutritional and therapeutic dietetic needs of the patients in accordance with the prescribed plan of care.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2413 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1476 (October 2019).

### **§9383. Sanitary Conditions**

A. ...

B. All food shall be transported, stored, prepared, distributed and served under sanitary conditions to prevent food borne illness. This includes keeping all readily perishable food and drink at or below 41 degrees Fahrenheit, except when being prepared and served. Refrigerator temperatures shall be maintained at 41 degrees Fahrenheit or below, freezers at 0 degrees Fahrenheit or below.

1. For those hospitals that contract with a food delivery service for nutritional and therapeutic dietary services, food shall be transported only via vehicles designed, equipped, and maintained solely for the purpose of the transportation and delivery of food by the food management company.

C. Hot foods shall leave the kitchen or steam table at or above 140 degrees Fahrenheit, and cold foods at or below 41 degrees Fahrenheit. In-room delivery temperatures shall be maintained at 120 degrees Fahrenheit or above for hot foods and 50 degrees Fahrenheit or below for cold items, except for milk which shall be stored at 41 degrees Fahrenheit. Food shall be transported to the patients' rooms in a manner that protects it from contamination, while maintaining required temperatures.

1. For those hospitals who contract with a food management company for nutritional and therapeutic dietary services, transportation and delivery of such food shall be transported and served in accordance with §9383.A-C.

D. All equipment and utensils used in the preparation and serving of food shall be properly cleansed, sanitized and stored. This includes maintaining a water temperature in dish washing machines at 140 degrees Fahrenheit during the wash cycle (or according to the manufacturer's specifications or instructions) and 180 degrees Fahrenheit for the final rinse. Low temperature machines shall maintain a water temperature of 120 degrees Fahrenheit with 50 parts per million (ppm) of hypochlorite (household bleach) on dish surfaces. For manual washing in a 3 compartment sink, a wash water temperature of 75 degrees Fahrenheit with 50 ppm of hypochlorite or equivalent, or 12.5 ppm of iodine; or a hot water immersion at 170 degrees Fahrenheit for at least 30 seconds shall be maintained. An approved lavatory shall be convenient and equipped with hot and cold water tempered by means of a mixing valve or combination faucet for dietary services staff use. Any self-closing, slow-closing, or metering faucet shall be designed to provide a flow of water for at least 15 seconds without the need to reactivate the faucet. Effective with the promulgation of these requirements, an additional lavatory shall be provided in the

dishwasher area in newly constructed hospitals or in existing hospitals undergoing major dietary alterations.

1. For those hospitals that contract nutritional and therapeutic dietary services, such shall be conducted in accordance with the *State Sanitary Code* for the preparing, cleaning, sanitation, and storage of equipment and utensils.

E. - H. ...

I. The physical environment in which all food preparation takes place shall be kept clean and in operating condition.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2414 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1476 (October 2019).

Rebekah E. Gee MD, MPH  
Secretary

1910#068

## RULE

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Dredging (LAC 76:XIII.101)

The Wildlife and Fisheries Commission has amended the rules relative to dredging of fill sand and fill material from the water bottoms of the state of Louisiana and royalties. This Rule is hereby adopted on the day of promulgation.

## Title 76

### WILDLIFE AND FISHERIES

#### Part XIII. Fill Material

#### Chapter 1. Royalties

#### §101. License to Dredge; Classes of License; Royalties

A. No person or firm shall dredge fill material, sand or gravel from water bottoms of this state without a license from the Department of Wildlife and Fisheries.

B. The fee for such license shall be set at \$25 for a noncommercial license and \$50 for a commercial license. The license fee is nonrefundable.

C. There shall be five classes of license as indicated in the schedule below. A severance royalty payment, based on cubic yards of material removed from water bottoms of this state, shall be paid to the state through the Department of Wildlife and Fisheries in the amounts indicated in the schedule below.

Class	Applicability	Royalty Payment	License Fee
A	applicable to commercial dredging or initial acquisition of fill sand or fill material with the specific intent to offer such fill for resale	\$0.29 / cubic yard	\$50
B	applicable to dredging of fill sand or fill material for commercial purposes other than the specific intent to offer such fill for resale. Such commercial purposes shall include operations related to mineral activities	\$0.25 / cubic yard	\$50

Class	Applicability	Royalty Payment	License Fee
C	applicable to a person dredging or contracting for dredging of fill sand or fill material for private, noncommercial purposes	\$0.15 / cubic yard	\$25
D	applicable to dredging of fill sand or fill material for an activity that has a public benefit, such as but not limited to a coastal conservation or restoration activity, navigation purpose, removal of sediment buildup, or recreational activity, except as provided in R.S. 56:2011.E.	\$0.05 / cubic yard	\$25
E	applicable to all other dredging of fill sand or fill material	\$0.25 / cubic yard	\$25

1. The license shall be valid for one year beginning January 1 and ending December 31 of that same calendar year. The license may be purchased at any time during the year for the current license year and beginning November 15 for the immediately following license year. No person with an outstanding violation of this Chapter may purchase a license. At all times, the original license shall be available at the dredge site for inspection by a duly authorized agent of the department.

2. Upon failure to pay royalty when due, a penalty of 1.5 percent per month calculated upon the royalty due, shall be levied and collected by the department in addition to the royalty due. This penalty shall become due without demand for payment by the department. This penalty is in addition to any other penalties or fines as provided by law.

3. Holder of a class A or B license that exceeds the licensed dredge volume may be levied a penalty of \$0.05 / cubic yard calculated on the volume that exceeds the licensed volume. This penalty shall become due without demand for payment by the department.

4. Any interest and/or penalty owed on unpaid royalty shall be established by the department in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

D. A license shall not be issued to an applicant who is, or who contracts for the removal of fill material with someone whose fill material license has been revoked or suspended for cause within the past 12 months, or who has an outstanding, unresolved royalty debt to the department, or who has repeatedly violated other provisions of previous permits or agreements may be deemed to not be in good standing with the department.

E. An application, including the applicant's name and contact information, dredge site information, estimated amount of material to be removed, detailed description of the proposed activity, and state and federal permit numbers, shall be submitted to the department.

F. A performance bond to run concurrently with the period of the license shall accompany the application. In lieu, the entire royalty fee owed to the state shall be remitted with the application.

1. The performance bond shall be in the amount equal to the known volume (historical capacity) of the existing pit(s) to be filled.

2. A certified copy of such bond must be submitted to the Department of Wildlife and Fisheries before commencement of any dredging operation.

G.1. The extent of a single permitted site in the Mississippi River, the Atchafalaya River, the Red River, the Pearl River (not including the West Pearl), the Calcasieu River below the saltwater barrier, the Ouachita/Black River south of the confluence of Bayou Bartholomew shall not exceed 1 linear mile and shall not extend across the geometric center line of the stream.

2. The extent of a single permitted site on all other streams except designated Natural and Scenic streams shall not exceed 1 linear half mile. Fill material, sand and gravel shall not be permitted to be removed from the water bottom of any designated Natural and Scenic River unless removal of such material is specifically allowed by statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:2011.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 19:1341 (October 1993), amended LR 45:1477 (October 2019).

### **§103. Reporting Requirement**

A. Holders of a class A, B, D or E licenses shall notify the department, in writing, their intent to begin dredging. Notification shall include anticipated beginning and ending dates of dredging activity.

B. Holders of a class A or B license shall file a monthly report, on forms obtained from the department.

1. The monthly report must include the total cubic yards of material dredged. The monthly report must be submitted to the department on or before the fifteenth of the following month.

2. In cases where there was no dredging during the month, a report shall be filed with the department indicating therein that no dredging occurred.

3. Failure to submit a monthly report or submitting a monthly report with false information will be cause for permit revocation or suspension.

4. Licensee will provide for each dredge project a pre- and post-dredging cross section survey of the receiving pit to be completed and certified by a registered professional engineer or a registered professional land surveyor for the purpose of determining the quantity of material removed from water bottoms of this state. Upon completion of a cross section survey by a qualified engineer, licensee shall have said engineer complete an affidavit giving pertinent details of the cross section survey. The department will furnish an affidavit form for this purpose. This affidavit will be used as an attachment in conjunction with all cross section surveys. Each dredging event that occurs during the life of a license will be certified in this manner by a qualified engineer. Pre- and post-dredging photographs of the pit shall be provided with the affidavit and cross section survey.

5. No fill material shall be removed from a pit prior to a post dredging survey being conducted.

6. Dredge volumes may be calculated by other methods as accepted and approved by the department on a case-by-case basis and prior to any dredging.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:2011.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 45:1478 (October 2019).

### **§105. Audit and Inspection**

A. The department reserves the right, and the said licensee so agrees, to permit the department's authorized representatives to examine any and all of the licensee's books, records and memoranda of whatever nature, pertaining to or having connection whatever with the removal or sale of said permitted material.

B. Department reserves the right to have the department's authorized agents or representatives inspect the dredges, barges, boats, scows or other related equipment of any kind by which the said permitted material is removed, and to keep a check on the number of holding pits at the project stockpile site, and also to determine by whatever means it may deem necessary, the number of cubic yards of permitted material which have been removed from the hereinabove described beds or water bottoms, and to require the payment thereof. Furthermore, the department reserves the right to inspect any contracts held by the licensee that related to the licensee's pit operation.

C. Licensee will acquire all other federal, state, local, and municipal permits and permissions required for the licensed activity prior to commencement of work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:2011.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 45:1478 (October 2019).

### **§107. Violations and penalties**

A. Any person or firm found to be dredging without, or in violation of a validly issued license from this department shall be subject to criminal and civil penalties pursuant to R.S. 56:2012, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:2011.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 45:1478 (October 2019).

Robert J. Samanie, III  
Chairman

1910#021

# Notices of Intent

## NOTICE OF INTENT

### Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences Agricultural Chemistry and Seed Commission

#### Industrial Hemp (LAC 7:XIII.Chapter 13)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority set forth in R.S. 3:1461 et seq., notice is hereby given that the Department of Agriculture and Forestry (“LDAF”) intends to adopt LAC 7:XIII.1301-1343 regarding the regulation, licensure, and enforcement of the cultivation, processing, and transportation of industrial hemp. Section 1301 sets forth the department's authority to adopt regulations. Section 1303 sets forth the definitions used in the industrial hemp regulations. Section 1305 addresses the general requirements for industrial hemp licenses. Section 1307 outlines the requirements for an industrial hemp seed producer license. Section 1309 outlines the requirements for an industrial hemp grower license. Section 1311 outlines the requirements for an industrial hemp processor license. Section 1313 outlines the requirements for an industrial hemp contract carrier license. Section 1315 addresses the background check requirements and procedures for applicants. Section 1317 sets forth the license and testing fees. Section 1319 addresses the requirements for industrial hemp growers and seed producers. Section 1321 addresses the procedures for industrial hemp seed acquisition. Section 1323 establishes land restrictions for production and processing of industrial hemp. Section 1325 provides restrictions for certain industrial hemp sales and transfers. Section 1327 sets forth prohibited activities. Section 1329 outlines the requirements for submission of annual production reports to the Department. Section 1331 addresses maintenance and retention of records. Section 1333 outlines the authority of the commissioner or his authorized agent(s) to access a grower or processor facility for the purpose of inspection. Section 1335 requires that all industrial hemp be sampled for THC concentration levels and outlines testing procedures. Section 1337 addresses destruction methods for industrial grown in violation of this Part. Section 1339 outlines adjudicatory proceedings for violations of the law or regulations. Section 1341 outlines a plan for corrective action for negligent violations of the law or regulations. Section 1343 outlines the issuance of stop orders for alleged violations.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XIII. Seeds

#### Chapter 13. Industrial Hemp

#### Subchapter A. General Provisions

#### §1301. Authority

A. The Louisiana Department of Agriculture and Forestry adopts these regulations under the authority of R.S.

3:1461 et seq. for the purpose of regulation, licensure, and enforcement of the cultivation, processing, and transportation of industrial hemp.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 45:

#### §1303 Definitions

A. The provisions of R.S. 3:1462 relating to definitions, words, and terms are hereby incorporated by reference and made a part hereof and will therefore apply and govern the interpretation of these rules. Any word or term not defined in these rules shall have the same meaning ascribed to it in R.S. 3:1462. Any word not defined in R.S. 3:1462 or this Chapter shall be construed in accordance with its plain and ordinary meaning.

B. The following words and terms shall have the following meanings:

*AOSCA*—Association of Official Seed Certifying Agencies.

*AOSCA-Certified Seed, AOSCA-Registered Seed, and AOSCA Foundation Seed*—seed that has been produced and labeled in accordance with the procedures and in compliance with the rules and regulations of an AOSCA seed certifying agency or by the Organization for Economic Co-operation and Development (“OECD”) Seed Schemes. AOSCA Certified Seed programs provide standards and procedures approved by the United States Secretary of Agriculture to maintain and make available to the public high quality seed and propagating materials of superior crop plant varieties grown & distributed to insure genetic identity and purity.

*Cannabis*—all parts of the *Cannabis* plant, whether growing or not, including its seeds, resin, compounds, salts, derivatives, and extracts.

*CBD*—cannabidiol.

*Certificate of Analysis (“COA”)*—an official document issued by an LDAF approved laboratory which includes, along with other sample information, the unique sample number and THC level test results of the submitted sample.

*Commission*—the Louisiana Agricultural Chemistry and Seed Commission.

*Commissioner*—the Louisiana Commissioner of Agriculture and Forestry.

*DEA*—U.S. Drug Enforcement Administration.

*Delta-9-THC (“THC”)*—delta-9-tetrahydrocannabinol concentration.

*Denude*—to strip or remove the outside layer or covering from industrial hemp stalks.

*Designated Responsible Party*—the natural person designated by a business applicant or licensee as responsible for daily business operations.

*GPS*—global positioning system.

*Harvesting*—the process of cutting or collecting industrial hemp crop or crop parts grown in a plot, field, greenhouse, or indoor growing structure.

*Harvest/Destruction Report*—an official document issued by LDAF that must be completed by a licensed grower of industrial hemp and submitted to LDAF prior to harvest or destruction of any industrial hemp field, greenhouse, or indoor growing structure.

*Industrial Hemp*—the plant *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a THC concentration of not more than 0.3 percent on a dry weight basis.

*Industrial Hemp Plant Parts*—any floral buds, leaves, roots, seeds, stalks, or stems of the plant *Cannabis sativa L.* with a THC concentration of not more than 0.3 percent on a dry weight basis.

*Industrial Hemp Products*—products derived from, or made by, processing industrial hemp plants or plant parts.

*Law Enforcement Agency*—the Louisiana State Police, DEA, or other federal, state, or local law enforcement agency or drug suppression unit.

*License Application*—a document executed by a person and LDAF authorizing the person to grow, handle, store, or transport industrial hemp at one or more specified locations in Louisiana under the terms set forth in the document, R.S. 3:1461 et seq., and this Chapter.

*Licensed Grower*—a person possessing a license issued by LDAF under the authority of R.S. 3:1461 et seq. and this Chapter to grow, cultivate, or handle industrial hemp.

*Licensee*—any person possessing a contract carrier, grower, processor or seed producer license issued by LDAF under the authority of this Chapter.

*Location ID*—the unique identifier established by the applicant for each unique set of GPS coordinates where industrial hemp will be grown, stored, or processed, and which may include a field name or building name.

*LDAF*—the Louisiana Department of Agriculture and Forestry.

*Market or Marketing*—promoting or selling a product within Louisiana, in another state, or outside of the United States. Marketing includes efforts to advertise and gather information about the needs or preferences of potential consumers or suppliers.

*Nonviable Seed*—a seed that has been crushed, dehulled, or otherwise rendered to have a zero percent germination rate.

*Person*—any individual, partnership, corporation, company, association, or other legal entity.

*Planting Report*—an official document issued by LDAF that must be completed by an industrial hemp licensee and submitted to LDAF after each planting of industrial hemp in any field, greenhouse, or indoor growing structure.

*Plot*—a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of industrial hemp throughout the area.

*Processing*—converting industrial hemp into a marketable form.

*Seed Source*—the origin of any industrial hemp seed.

*Site Modification Request*—an official document issued by LDAF that a licensee must submit in order to add, change, delete, or modify that licensee's approved fields,

greenhouses, indoor growing structures, or any other sites where that licensee stores, processes, or handles industrial hemp plants or plant parts.

*Variety*—a subdivision of a kind characterized by growth, yield, plant, fruit, seed, or other characteristics by which it can be differentiated from other plants of the same kind.

*Volunteer Industrial Hemp Plant*—an industrial hemp plant that was not intentionally planted, but results from a previous crop, growing on its own accord from seeds or roots following an intentionally planted industrial hemp crop.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:1462 and R.S. 3:1464.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 45:

## **Subchapter B. Licenses**

### **§1305. Licensing**

A. Each industrial hemp seed producer, grower, processor, or contract carrier shall obtain a license from LDAF prior to engaging in the regulated activity.

B. The effective dates of all industrial hemp licenses shall be January 1 through December 31 of any given year, and licenses must be renewed annually. Applications for industrial hemp licenses may be submitted to LDAF at any time during the year, and are effective upon approval by LDAF through the end of that year. Licenses issued in 2019 shall have an effective date from the date of approval by LDAF and shall expire on December 31, 2020.

C. Applications shall be handled and processed by LDAF and reviewed for approval or denial. Upon completion of the review process, the applicant will be notified of the application status.

D. The licensee shall be responsible for the cost of all licenses and sample testing fees.

E. No unlicensed person who is not employed by a licensee shall grow, cultivate, handle, store, process, or commence transporting industrial hemp at any location within Louisiana. No licensee shall allow any unlicensed person who is not an employee of that licensee to grow, cultivate, handle, store, process, or transport industrial hemp under his or her license.

F. No person under the age of 18 years of age shall be granted a license under this Chapter.

G. No person shall be eligible to obtain a license if the applicant:

1. was convicted of a felony within the ten years immediately preceding the application date.
2. was convicted of a drug-related misdemeanor conviction within the two years immediately preceding the application date; or
3. fails to provide all application requirements and documentation.

H. A person applying for multiple licenses must complete a license application and submit the associated fee for each application.

I. If any of the information submitted in an application changes, the licensee shall notify LDAF, in writing, of those changes within 15 days.



J. The licensee shall submit to LDAF a site modification request form for approval to add, change, remove, or modify any information concerning the licensee's approved fields, greenhouses, indoor growing structures, or any other sites where that licensee stores, processes or handles industrial hemp plants or plant parts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 45:

#### **§1307. Seed Producer License**

A. No person shall produce industrial hemp seed for planting purposes without first applying for and being granted a seed producer license from LDAF.

B. A seed producer license issued by LDAF shall authorize the licensee to obtain, produce, transport, and sell industrial hemp seed pursuant to this Chapter.

C. All producers of industrial hemp seed shall comply with the requirements set forth in R.S. 3:1431 *et seq.*, including but not limited to the testing and labeling requirements of agricultural seeds.

D. The application shall include, at a minimum, the following information for consideration:

1. Type of license being requested as set forth in R.S. 3:1465;

2. Applicant's full name, Louisiana mailing and physical address, telephone number and email address;

3. Physical address, legal description, location ID, and GPS coordinates for each field, greenhouse, indoor growing structure, or site where industrial hemp will be grown, handled, or stored;

4. If the applicant is a business entity:

a. the full name of the business;

b. the principal Louisiana business physical address;

c. the full name, title and email address of the individual applying for the license;

d. the full name, title, and email address of the designated responsible party; and

e. the full name and mailing address of the registered agent.

5. Detailed maps depicting each site where industrial hemp seed will be produced, handled, and stored, with appropriate designations for entrances, field boundaries, and the specific locations corresponding to GPS coordinates;

6. Proposed field acreage or square footage for all greenhouse(s) or indoor growing structure(s) to be planted for seed production; and

7. Intended variety name, origin, and seed certifying agency of industrial hemp seed for each planting.

E. LDAF shall maintain all information obtained pursuant to this Section for a period of not less than three years and all information received in accordance with this Section shall be transmitted to the United States Secretary of Agriculture not more than 30 days after the date on which the information is received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 45:

#### **§1309. Grower License**

A. No person shall grow industrial hemp without first applying for and receiving an industrial hemp grower license from LDAF.

B. A grower license issued by LDAF shall authorize the licensee to obtain industrial hemp seed, possess industrial hemp seed for planting, cultivate an industrial hemp crop, harvest industrial hemp plant parts, as well as possess, store, handle, transport, and market plant parts pursuant to this Chapter.

C. The application shall include, at a minimum, the following information for consideration:

1. Type of license being requested as set forth in R.S. 3:1465;

2. Applicant's full name, Louisiana mailing and physical address, telephone number and email address;

3. Physical address, legal description, location ID, and GPS coordinates for each field, greenhouse, indoor growing structure, or site where industrial hemp will be cultivated, handled, or stored;

4. If the applicant is a business entity:

a. the full name of the business;

b. the principal Louisiana business physical address;

c. the full name, title and email address of the individual applying for the license;

d. the full name, title, and email address of the designated responsible party; and

e. the full name and mailing address of the registered agent.

5. Detailed maps depicting each site where industrial hemp will be cultivated, handled, or stored, with appropriate designations for entrances, field boundaries, and the specific locations corresponding to GPS coordinates;

6. Proposed field acreage or square footage for all greenhouse(s) or indoor growing structure(s) to be planted; and

7. Intended variety name and origin of industrial hemp seed for each planting.

D. LDAF shall maintain all information obtained pursuant to this Section for a period of not less than three years and all information received in accordance with this Section shall be transmitted to the United States Secretary of Agriculture not more than 30 days after the date on which the information is received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 45:

#### **§1311. Processor License**

A. No person shall process industrial hemp without first applying for and receiving an industrial hemp processor license from LDAF.

B. The application shall include, at a minimum, the following information for consideration:

1. Applicant's full name, Louisiana mailing and physical address, telephone number, and email address;

2. If the applicant is a business entity:

a. the full name of the business;

b. the principal Louisiana business physical address;

c. the full name, title and email address of the individual applying for the license;

d. the full name, title, and email address of the designated responsible party; and

e. the full name and mailing address of the registered agent.

3. Detailed maps, legal description, physical address, location ID, and GPS coordinates for each building or site where industrial hemp will be processed, handled, or stored.

C. LDAF shall maintain all information obtained pursuant to this Section for a period of not less than three years and all information received in accordance with this Section shall be transmitted to the United States Secretary of Agriculture not more than 30 days after the date on which the information is received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 45:

### **§1313. Contract Carrier License**

A. No person shall contract to transport industrial hemp for compensation in Louisiana without first applying for and receiving an industrial hemp contract carrier license from LDAF.

B. A contract carrier license issued by LDAF shall authorize the licensee to transport or deliver industrial hemp plant parts.

C. The application shall require applicants to submit, at a minimum, the following information and documents:

1. Applicant's full name, Louisiana mailing and physical address, telephone number, and email address;

2. If the applicant is a business entity:

a. the full name of the business;

b. the principal Louisiana business physical address;

c. the full name, title and email address of the individual applying for the license;

d. the full name, title, and email address of the designated responsible party; and

e. the full name and mailing address of the registered agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 45:

### **§1315. Criminal Background Check**

A. The applicant for each seed producer, grower, processor, or contract carrier license shall undergo and pay for an annual criminal background check.

B. If the applicant is a business entity, both the individual applying for a license and the designated responsible party shall undergo and pay for an annual criminal background check.

C. Each individual who is required to undergo and submit an annual criminal background check shall:

1. Submit a criminal background check application to the Louisiana State Police as set forth in R.S. 3:1465(D)(1);

2. Submit payment for the background check fee directly to the Louisiana State Police and Federal Bureau of Investigation as set forth in R.S. 3:1465(D)(1); and

3. Include a certified copy of the background check reports with the industrial hemp license application or the applicant may authorize Louisiana State Police to deliver the completed criminal background check directly to LDAF.

D. LDAF shall not accept a criminal background check report that was issued more than 90 days prior to submission of the application.

E. Failure to submit the criminal background check report with the license application may result in the denial of application.

F. For business entities, substitution of a designated responsible party shall require the submission of a current criminal background check report for the proposed substituted designated responsible party issued within the last 90 days. Licensee must obtain prior written approval from LDAF for the substitution of a designated responsible party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464 and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 45:

### **Subchapter C. Fees**

#### **§1317. Licensing and Testing Fees**

A. License Fees

1. The annual fee for a seed producer, grower, processor, and contract carrier license shall be \$500 each.

2. New license fees are due upon notification of application approval. No license shall be issued until payment of the license fee is received by LDAF.

3. The license renewal fee is due annually on November 30. No license shall be renewed until payment of the license fee is received by LDAF.

B. Sample Testing Fees

1. THC testing of industrial hemp plant parts shall be \$250 per sample.

2. THC testing fees are due at the time of sample collection.

3. Requests for alternative payment arrangements for fees must be pre-approved by LDAF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464 and R.S. 3:1467.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 45:

### **Subchapter D. Seed Producers and Growers**

#### **§1319. Requirements for Seed Producers and Growers**

A. Licensed seed producers and growers shall post a sign at each field, greenhouse, or indoor growing structure. The sign shall comply with the following requirements and remain posted during the entire crop cycle:

1. The designation, "Louisiana Industrial Hemp Program";

2. Industrial Hemp license number;

3. LDAF industrial hemp program's telephone number;

4. Minimum sign size shall be 18 inches by 24 inches for a field and 8.5 inches by 11 inches for a greenhouse or indoor growing structure;

5. The sign shall be posted at the main entrance of each field, greenhouse, or indoor growing structure; and

6. The sign shall be printed and conform to the design template provided to each licensee by LDAF.

B. LDAF may sample and test any industrial hemp material in a licensee's possession at any time if there is reason to believe that a violation of this Part has occurred.

C. A licensee shall submit in writing a completed harvest/destruction report to LDAF at least 15 days prior to the intended harvest date or intended destruction date of a failed crop.

D. A licensee shall submit in writing a completed planting report to LDAF for each field, greenhouse, or indoor growing structure within 15 days commencing after the first day of the planting of industrial hemp.

1. A licensee shall submit in writing a completed planting report to LDAF for each greenhouse or indoor growing structure by March 31, June 30, September 30, and December 31 of each year after the initial planting.

E. Representatives of LDAF shall be provided with complete and unrestricted access to all industrial hemp plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all industrial hemp plants.

F. An industrial hemp crop shall not be harvested more than 15 days following the date of sample collection by LDAF, unless specifically authorized in writing by LDAF.

G. Should a licensee fail to complete harvest within 15 days, LDAF may order a resample and retest of the plot, and the licensee shall be assessed an additional testing fee per plot in an amount not to exceed \$250.00 per plot.

H. An industrial hemp crop planted or cultivated in a field, greenhouse, or indoor growing structure shall be planted or cultivated in a manner to allow LDAF to collect a representative sample throughout the entire crop. If a crop is not planted or cultivated in such a manner that allows for the collection of a sample throughout the entire crop, then the grower shall make modifications to the crop to allow collection and sampling throughout the entire crop.

I. A licensee shall destroy any unharvested industrial hemp plants contained in a field, greenhouse, or indoor growing structure or any portion thereof resulting from crop failure or that licensee's failure to harvest for any reason. LDAF shall approve the written destruction method of the unharvested industrial hemp plants.

J. A licensee shall monitor and destroy volunteer industrial hemp plants from the licensee's cultivation for a period of three years after cultivation ends.

K. A licensee who fails to timely submit a Harvest/Destruction Report or who harvests a crop prior to a sample being collected by LDAF may be subject to crop destruction and regulatory action up to and including license revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464, R.S. 3:1467, and R.S. 3:1468. HISTORICAL NOTE:

Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 45:

#### **§1321. Seed Acquisition and Approval**

A. No person shall acquire seeds from a source outside the U.S. or from a U.S. territory, tribal land or state other than Louisiana without first:

1. Submitting a completed Seed Acquisition Request form and all required attachments to LDAF; and

2. Obtaining written approval of the Seed Acquisition Request form from LDAF.

B. No LDAF pre-approval shall be required for transfer of industrial hemp seed between Louisiana licensees within Louisiana of any variety listed on LDAF's published Industrial Hemp Variety list.

C. Industrial hemp seed offered for sale or distribution for planting purposes into or within Louisiana shall be one of the following:

1. Certified seed produced from industrial hemp plants that meet the criteria for breeder, foundation, registered, or certified classes as defined by the Official Seed Certification Standards in Louisiana or by another AOSCA member agency; or

2. Seed from an industrial hemp grower licensed within the state of production that has official documentation issued by a third party independent laboratory showing that the mature crop from which the seed was harvested had a THC concentration of 0.3 percent or less by dry weight.

D. In addition to this Chapter, all industrial hemp seed sold or distributed for planting purposes within or into Louisiana shall be subject to all requirements of the Louisiana Seed Law (R.S. 3:1431 et seq.) and the Louisiana Seed Regulations (LAC 7:XIII.101 et seq.)

E. Every person whose name appears on the label of industrial hemp seed, except persons exempt pursuant to the authority of the Louisiana Seed Law (R.S. 3:1445), and who sells, transports, distributes, or offers or handles for sale industrial hemp seed shall have a complete analysis test performed on the seed by a registered seed technologist or an official state seed analyst prior to the seed being sold, distributed, offered, or handled for sale in Louisiana.

F. All industrial hemp seed produced in Louisiana shall be certified true to type under the Louisiana seed certification program guidelines for industrial hemp seed. No other industrial hemp seed may be produced in Louisiana for distribution or sale unless approved by LDAF.

G. No person shall buy, sell, or transfer industrial hemp seed to or from any person in Louisiana without first verifying that the person is licensed by LDAF.

H. Upon request from LDAF, a licensed seed producer shall provide a seed distribution list within 48 hours of the request showing locations where and to whom industrial hemp seed was distributed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431, R.S. 3:1436, R.S. 3:1445, 3:1463, R.S. 3:1464, R.S. 3:1465, and R.S. 3:1466.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 45:

#### **Subchapter E. Restrictions and Prohibitions**

##### **§1323 Land Use Restrictions**

A. A licensee shall not grow, handle, process, or store industrial hemp in any structure that is used for residential purposes.

B. A licensed grower or processor shall not grow, handle, process or store industrial hemp in any outdoor field or site that is located within 1,000 feet of a school, daycare or similar public areas frequented by children as determined by LDAF.

C. An applicant may not apply for a license to grow, cultivate, handle, or process industrial hemp on property that is not owned or leased by that applicant.

D. An applicant or licensee whose application and/or license has been revoked or denied for failure to obtain a

satisfactory criminal background check as defined in R.S. 3:1465(D)(a)(2) or failure to comply with a written order from an LDAF agent shall not be the designated responsible party for another licensee for a period of three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464 and R.S. 3:1465.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 45:

### **§1325. Restrictions on Sale or Transfer**

A. A licensee shall not sell or transfer, or permit the sale or transfer of living industrial hemp plants, viable plant parts, or seeds to any person in the state who does not hold an industrial hemp license issued by LDAF.

B. Licensees may transfer up to one pound of industrial hemp plants or plant parts per transfer to testing laboratories, both within and outside the state for the purpose of measuring THC, CBD, or other phytocannabinoid profile levels. It is the responsibility of the licensee to ensure compliance with laws in other states.

C. A licensee shall not store live industrial hemp plants or propagating stock at any location that was not previously approved by LDAF on that licensee's application and/or site modification request form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 45:

### **§1327. Prohibitions**

A. No person shall:

1. Sell, offer for sale, expose, distribute or transport industrial hemp seed not produced in accordance with the provisions of this Chapter;

2. Fail to comply with sample collection, and testing requirements prior to harvesting or destroying any industrial hemp plants or plant parts in accordance with this Chapter;

3. Detach, alter, deface, or destroy any required documentation specified in this Chapter;

4. Alter, substitute, or misrepresent seed in a manner inconsistent with this Chapter;

5. Hinder or obstruct in any way any authorized agent(s) of LDAF in the performance of their duties;

6. Fail to comply with all licensing and reporting requirements set forth in the Industrial Hemp Law (R.S. 3:1461 *et seq.*) or this Chapter;

7. Fail to keep required records as set forth in this Chapter or to provide such records to LDAF for inspection upon request;

8. Fail to monitor and/or destroy volunteer industrial hemp plants for three years following cultivation as set forth in this Chapter;

9. Provide false, misleading, or incorrect information to LDAF pertaining to the licensee's cultivation, processing, or transportation of industrial hemp including, but not limited to, information provided in any application, report, record, or inspection required or maintained in accordance with the Industrial Hemp Law (R.S. 3:1461 *et seq.*) and this Chapter;

10. Plant, grow, store, transfer, or process industrial hemp on any site not listed in the licensing application as set forth in this Chapter; or

11. Sell or transfer, or permit the sale or transfer of living industrial hemp plants or plant parts to any person in the state who does not hold an industrial hemp license issued by LDAF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464, R.S. 3:1465, R.S. 3:1466, R.S. 3:1467, R.S. 3:1468, R.S. 3:1470, and R.S. 3:1471.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 45:

## **Subchapter F. Reporting and Record-Keeping**

### **§1329. Production Reports**

A. Industrial hemp grower, seed producer, and processor licensees shall be required to maintain and submit annual production reports to LDAF on forms provided by LDAF by December 31.

1. Annual production reports submitted by licensed growers and seed producers shall include the following:

a. Acreage or square footage planted, planting date, harvested date, and varieties grown;

b. Type of industrial hemp plant grown or marketed, including its actual end-use as fiber, seeds, oil, or other uses;

c. Total amount of industrial hemp sold for processing;

d. Total dollar value of industrial hemp sold for processing; and

e. Current industrial hemp plant parts in storage and location of that storage.

2. Annual reports submitted by licensed processors shall include the following:

a. Total amount of industrial hemp processed;

b. Type of processing, including but not limited to fiber, seeds, oil, or other uses; and

c. Total dollar value of industrial hemp processed.

3. Failure to submit a complete and accurate annual production report may constitute a violation of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464 and R.S. 3:1466.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 45:

### **§1331. Records**

A. All licensees shall maintain, at a minimum, the following records, where applicable:

1. All records for crop production and crop destruction;

2. Documentation of any sales or distribution, including the party to which all product was sold or distributed;

3. For growers, documentation of traceability from seed acquisition to harvest or crop termination; and

4. For processors, documentation of industrial hemp acquisition from grower to their final product.

B. Any person transporting or delivering industrial hemp including, but not limited to, contract carriers, shall have a dated invoice, bill of lading, or manifest in his or her possession during the entire time of transport or delivery, which shall include:

1. The seller's and purchaser's name and address;

2. The specific origin and destination of the industrial hemp being transported; and

3. The quantity of industrial hemp being transported.

C. All records required under R.S. 3:1466 and this Chapter shall be maintained by the licensee while the license is valid and for a minimum of 3 years after the expiration of the license

D. Required records shall be provided for inspection within 48 hours upon request by LDAF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464 and R.S. 3:1466.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 45:

#### **Subchapter G. Inspections**

##### **§1333. Site Access**

A. When there is reason to believe that a violation of any provision of R.S. 3:1461 et seq. or this Part has occurred, the commissioner or his authorized agent(s) shall have access, during normal working hours, to any premises where there is reason to believe that industrial hemp plants or plant parts are transported, produced, cultivated, and/or stored for the purpose of inspection, investigation, and/or collection of samples for testing. The commissioner or his authorized agent(s) may inspect any industrial hemp seed, plant, or plant parts located on the premises. LDAF shall not charge a testing fee for samples collected pursuant to an investigation initiated by LDAF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464 and R.S. 3:1468.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 45:

#### **Subchapter H. Sampling, Testing, and Destruction**

##### **§1335. THC Sampling and Testing**

A. All industrial hemp plants or plant parts, whether harvested or unharvested, shall be subject to sampling for THC levels by LDAF.

B. The licensee shall be responsible for the cost of all sample testing fees, as set forth in this Chapter.

##### **C. Sample Collection**

1. Licensees shall submit a Harvest/Destruction Report for each field, greenhouse or indoor growing structure to LDAF a minimum of 15 days prior to harvesting or destroying any industrial hemp plants.

2. LDAF will notify the licensee of the date and approximate time when samples will be collected.

3. LDAF will collect samples from each field, greenhouse, or indoor growing structure.

4. LDAF may retain and transport samples of industrial hemp plants and plant parts collected from an industrial hemp licensee as required by the Industrial Hemp Law (R.S. 3:1461 et seq.) and this Chapter.

5. All samples collected by LDAF become the property of the Department and are non-returnable. No compensation shall be owed by LDAF for samples collected under this Chapter.

##### **D. Laboratory Testing**

1. Quantitative determination of THC levels will be measured using liquid chromatography with ultraviolet detection (LC-UV) or mass spectral detection if required by matrix interference (LC/MS/MS).

2. The results of the THC analysis shall be reported to the licensee and, if tested by an approved third party laboratory, to LDAF.

3. Samples with a THC concentration equal to or below 0.3 percent on a dry weight basis shall be issued a certificate of analysis and require no further action. The plot or harvested plant material from which the sample was obtained shall be released for marketing or further processing.

4. Samples with a THC concentration greater than 0.3 percent on a dry weight basis shall be reported by LDAF to the licensee and the licensee may request a resample and retest of the plot or harvested plant material. If no request is made within 10 days of the sample results being reported to the licensee, or the retested sample results are greater than 0.3 percent THC by dry weight, then the plot or harvested plant material from which the sample was taken shall be subject to destruction as set forth in Section 1337.

5. No industrial hemp plants or plant parts for which a THC analysis is pending shall be transferred, transported, sold, marketed, or otherwise disposed of until approved by LDAF.

##### **§1337. Destruction**

A. All industrial hemp plant parts resulting from a plot or harvested plant material represented by a sample with a THC concentration greater than 0.3 percent on a dry weight basis shall either be:

1. destroyed by a method approved by LDAF. Destruction may include, but is not limited to, plowing, shredding, herbicide application, and plant incineration or a combination thereof; or

2. subjected to an alternative destruction method, which shall include:

a. Industrial hemp stalks (denuded) may be harvested, processed and used for fiber and/or any other lawful purpose; or

b. Industrial hemp seed may be harvested, processed, and rendered non-viable, provided the source of the seed was produced from seed or the living plant part which meets the criteria for breeder, foundation, registered, or certified categories as defined by LDAF Seed Certification Program, including certification by other seed agencies recognized by AOSCA, and include a certifying tag of varietal purity issued by LDAF or another official certifying agency as defined in this Chapter.

B. The licensee shall submit a completed Harvest/Destruction Report to LDAF at least 15 days prior to destruction.

C. Harvested industrial hemp plant parts with a THC concentration of greater than 0.3 on a dry weight basis which have been commingled with industrial hemp plant parts from another plot, field, or indoor growing structure shall be destroyed and all commingled industrial hemp plant parts shall be destroyed as set forth in this Section.

D. Industrial hemp plants or plant parts produced in violation of this Part may be subject to destruction as set forth in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1462, R.S. 3:1464, R.S. 3:1467, and R.S. 3:1468.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 45:

## **Subchapter I. Enforcement**

### **§1339. Adjudicatory Proceedings; Violations**

A. The commissioner may suspend or revoke any license issued under the provisions of R.S. 3:1465 and this Chapter. The commissioner may also assess a civil penalty for violation of any provision of R.S. 3:1461 et seq. or any violation of any regulation enacted under the authority of said statutes.

B. Whenever the commissioner has reason to believe that a licensee has violated any provision of the R.S. 3:1461 et seq. or this Chapter, the commissioner shall notify the licensee of the alleged violation as well as an opportunity to respond thereto, by certified mail, prior to any scheduled hearing date.

C. Each separate day on which any violation occurs shall be considered a separate violation.

D. No penalty may be assessed nor may any license be suspended or revoked by the commissioner prior to the holding of an adjudicatory hearing before the commission. Such adjudicatory hearing shall be conducted in accordance with the requirements of the Administrative Procedure Act; any person alleged to have violated any provision of R.S. 3:1461 et seq. or this Chapter shall be accorded all rights and privileges under said Act.

E. The commission shall make an initial determination on alleged violations and recommend findings of fact and conclusions of law together with penalties, if applicable, in writing.

F. The commissioner shall make the final determination on the disposition of alleged violations. If the commissioner does not accept the recommendations of the commission following an adjudicatory proceeding, the commissioner shall notify the commission, in writing, of the reasons for not accepting the commission's recommendations.

G. Reinstatement of a revoked license shall be by hearing before the commission and approval of the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1461, 3:1463, R.S. 3:1464, and R.S. 3:1470. HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 45:

### **§1341. Corrective Action Plan for Negligent Violations and Mandatory Reporting**

A. In addition to being subject to license suspension, license revocation, and civil penalties, a person who is found by LDAF to have negligently committed the following violations may be subject to a corrective action plan:

1. Failing to provide a legal description of the field, greenhouse, indoor growing structure, or site where industrial hemp will be cultivated, handled, or stored;

2. Failing to obtain a seed producer, grower, contract carrier, or processor license from LDAF; or

3. Producing industrial hemp with a THC concentration of more than 0.3 percent on a dry weight basis.

B. A corrective action plan issued by LDAF shall include the following information:

1. A reasonable date by which the person shall correct the negligent violation; and

2. A requirement that the person shall periodically report to LDAF about the person's compliance with the corrective action plan, R.S. 3:1461 et seq., and this Chapter for a period of at least two years from the date of the corrective action plan.

C. A person who is found by LDAF to have negligently violated R.S. 3:1461 et seq. and this Chapter three times in a five year period shall be ineligible to hold an industrial hemp license for a period of five years beginning on the date of the third violation.

D. LDAF shall report a person who is found by LDAF to have violated R.S. 3:1461 et seq. and this Chapter with a culpable mental state greater than negligence to the Attorney General and State Police within 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 45:

### **§1343. Stop Orders**

A. A person believed to be in violation of the Industrial Hemp Law (R.S. 3:1461 et seq.) or this Chapter may be issued a written or verbal stop order by LDAF. Stop orders shall be effective immediately upon notification to the alleged violator.

B. If an alleged violator refuses to accept a written stop order when tendered or refuses or fails to claim such stop order when sent by certified mail, the stop order shall be deemed to have been delivered to the alleged violator.

C. Refusal or failure to abide by the terms of a stop order shall constitute a violation of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1464 and R.S. 3:1470.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 45:

#### **Family Impact Statement**

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### **Poverty Impact Statement**

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Analysis**

The proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rules. Written submissions must be directed to Lester Cannon, Director of the Seed Programs, Department of Agriculture & Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806 and must be received no later than 4 p.m. on the 22<sup>nd</sup> day of November, 2019.

#### **Public Hearing**

A public hearing will be held on December 3, 2019, at 9 a.m. in the Veterans' Auditorium at the Louisiana Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, please contact (225) 925-4733.

Mike Strain, DVM  
Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Industrial Hemp**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The Department of Agriculture and Forestry ("Department") intends to adopt the proposed rules regarding the regulation, licensure, and enforcement of the cultivation, processing, and transportation of industrial hemp as authorized by R.S. 3:1461 et seq. The proposed regulations are being promulgated pursuant to Act 164 of the 2019 Regular Session.

The Department estimates that oversight of the industrial hemp program will cost approximately \$298,805 annually. This cost includes salaries and related benefits of an Agricultural & Environmental Specialist (AES) Program Coordinator and three AES Inspectors (\$205,005), employee support costs (\$27,400), telephone services (\$1,200), job duty supplies (\$1,000), inspector vehicle leases (\$24,400), employee uniforms (\$800), and industrial hemp sampling and testing for THC concentration levels (\$25,000). In addition, there will be a one-time cost for computer and office equipment (\$14,000) required for administration of the program.

The proposed regulations will not have any impact on expenditures of local governmental units.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed regulations will increase statutorily dedicated revenue collected by the Department by an indeterminable amount. The funds for the industrial hemp program are authorized by R.S.3:1464 and proposed regulation LAC 7:XIII.1317, which provide for the department to charge a maximum of \$500 for an annual license fee for each seed producer, grower, processor, and contract carrier as well as \$250 per sample for THC concentration level testing. The revenue collections will depend on the degree of program participation which cannot be determined at this time.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Under the proposed regulations, persons choosing to participate in the industrial hemp program must pay an annual \$500 license fee for each seed producer, grower, processor, and contract carrier as well as pay sample testing fees of \$250 per plot of industrial hemp. Licensees will incur operating expenses associated with the production, transportation and processing of the industrial hemp crop. In addition, to the extent in which they are licensed, persons will potentially realize profits over time from the production, transportation and processing of industrial hemp.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is not anticipated that the proposed regulations will have an effect on competition. The proposed regulations do not limit the amount of licenses issued, or the minimum/maximum acreage allowed for production. The issuing of industrial hemp licenses will, in some cases, open a new business enterprise that is not currently in Louisiana. This should offer an avenue for an indeterminable increase in employment opportunities, dependent upon the level of program participation.

Dane K. Morgan  
Assistant Commissioner  
1910#051

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Children and Family Services Division of Child Welfare**

Adoption Subsidy Program and Adoption Petition Program  
(LAC 67:V.4901, 4903, 5101, 5103, and 5105)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953 (A), the Department of Children and Family Services (DCFS), proposes to amend LAC 67:V, Subpart 6 Adoptions, Chapter 49 Adoption Subsidy Program, Sections 4901 and 4903 and Chapter 51, Adoption Petition Program, Sections 5101, 5103, and 5105.

The amendment will allow the Department to extend the adoption subsidy support to children who exited foster care to a subsidized adoption and who continue to be under the care and responsibility of the adoptive parent after reaching age 18 and who meet the same eligibility criteria as children eligible for the Department's Extended Foster Care Program by facilitating the expenditure of IV-E funds for extended foster care services to the estimated 20 children who are currently eligible for these adoption subsidy services initiated after their sixteenth birthday as specified in Act 649 of the Regular Session of the Louisiana Legislature.

**Title 67**  
**SOCIAL SERVICES**  
**Part V. Child Welfare**  
**Subpart 6. Adoptions**

**Chapter 49. Adoption Subsidy Program**

**§4901. Subsidizing the Adoption of Children with Special Needs**

**A. Overview of Program Purpose**

1. The Subsidized Adoption Program enables the Department of Children and Family Services to make payments to adoptive parents on behalf of a child who otherwise might not be adopted because of special needs or circumstances. Subsidy payments shall be limited to a child(ren) for whom adoption is indicated but placement through existing resources is unavailable because of the child's physical or mental condition, race, age, membership in a sibling group which should not be separated, or other serious impediments or special needs. The adoption subsidy applies to a special needs child for whom the Department of Children and Family Services holds full and permanent custody prior to the adoptive placement or to a special needs child, SSI or AFDC eligible, for whom a private nonprofit agency holds custody and to nonrecurring adoption expenses only for special needs children who are adopted independently. The adoption subsidy may be extended for children who were adopted from foster care and initially began receiving the subsidy after age 16, but prior to age 18, if the adoptive parents remain financially responsible for the child, and the child meets the same eligibility criteria as children eligible for the department's Extended Foster Care program. No child may have an adoption subsidy initiated for the first time after age 18. The adoption laws of the state of Louisiana shall be adhered to, and the granting of a subsidy shall not affect the legal status of the child nor the rights and responsibilities of the adoptive parents.

2. The prospective adoptive family must meet basic adoption eligibility requirements in all respects except for the ability to assume complete financial responsibility for the child's care.

**B. Types of Subsidy.** The child may be subsidized for the following services up to age 18, or up to age 21 if eligible for an extension of the adoption subsidy.

1. **Maintenance.** The maintenance subsidy includes basic living expenses such as board, room, clothing, spending money, and ordinary medical and dental costs. The maintenance supplement may be ongoing, but must be renewed on a yearly basis. An extension of an adoption subsidy for youth who have turned 18 must be reviewed quarterly to ensure ongoing eligibility, but only needs to be renewed annually as long as eligibility criteria continue to be met. The amount of payment shall not exceed 80 percent of the state's regular foster care board rate based on the monthly flat rate payments for the corresponding age group. Changes in the maintenance subsidy rate care may occur once a year and the adjustment is made at the time of a change in the child's age group. The monthly maintenance shall not be based on specialized foster care arrangements such as subsidized foster care, alternate family care, or therapeutic foster care.

**2. Special Board Rate**

a. Foster parents adopting a foster child for whom a special board rate was received may request up to a maximum of 80 percent of the special board rate amount of \$300. This includes adoptive parents who were not previously certified as the child's foster parent(s), if the care and needs of the child in the adoptive home warrant this same special board rate. Therefore, under the Adoption Subsidy Program, the special board component for these type homes shall not exceed \$240. The continued need for the special board rate shall be reviewed at the time of the annual review for children under age 18. At age 18, the extension of an adoption subsidy shall be reviewed a minimum of quarterly.

b. For the child placed in a Subsidized Foster Home, Alternate Family Care facility, or a Therapeutic Family Care facility, the maximum amount of the special board component of the adoption subsidy shall not exceed \$258. This amount equals the Flexible Family Fund (monitored by the Office for Citizens with Developmental Disabilities and the Office of Behavioral Health and administered by the 10 human service districts/authorities) authorized for the care of children with severe emotional disturbance or severe intellectual/developmental disabilities who are in their own homes.

**B.3. – B.3.a.i. ...**

ii. psychiatric, or psychological expenses, special equipment, prosthetic devices, or speech therapy;

iii. – C. ...

**C.1.** Before a child is certified by the Division of Child Welfare as eligible for a subsidy, resources for adoptive placement without such benefits must be explored by the adoption worker. This will include recruitment of adoptive parents, registrations for a reasonable period on state, regional, and/or national adoption resources exchanges, and referral to appropriate specialized adoption agencies.

**C.2. – D.1. ...**

a. The income scale determining eligibility for the non IV-E maintenance subsidy shall be utilized by the Department of Children and Family Services, Division of Child Welfare to determine eligibility for non IV-E benefits. The scale is based on 60 percent of Louisiana's median income for a family of four, adjusted for family size as published by the U.S. Department of Health and Human Services. Figures in the column on the left refer to the number of family members, including the adoptive child(ren). Figures in the column on the right refer to family gross income. Persons living in the household who are not dependent on the adoptive family's income even though related, are not counted. Families whose income falls below the figures in the right column may apply for subsidy.

b. The Division of Child Welfare, Adoption Subsidy Program, will determine the appropriateness of subsidy benefits, the type of subsidy, and the level of the subsidy. An agreement form between the Division of Child Welfare and the prospective adoptive parents with clearly delineated terms must be signed prior to the granting of the final decree.



c. Income Chart

Family Size	Gross Annual Income
1 person	\$23,371
2 persons	\$30,562
3 persons	\$37,753
4 persons	\$44,944
5 persons	\$52,135
6 persons	\$59,326
7 persons	\$60,674
8 persons	\$62,022
9 persons	\$63,371
10 persons	\$64,719
11 persons	\$66,067
12 persons	\$67,416
13 persons	\$68,764
14 persons	\$70,112

d. For each additional family member above six persons, add three percentage points to the percentage for a six-person household (132 percent), and multiply the new percentage by 60 percent of the state's estimated median income for a four-person household.

2. IV-E Placements. Federal regulations prohibit the use of an income eligibility requirement (means test) for prospective adoptive parents in determining the availability of payments or other types of adoption assistance. The eligible child who has met the "special needs" requirements in Section 473(c) of the Social Security Act will be eligible for payments and other types of services and assistance under the Title IV-E Adoption Assistance Program. Parents with whom such a child is placed for adoption are eligible to receive Title IV-E payments and other assistance on behalf of that child, under an agreement with the state agency.

3. A child adopted from foster care after age 16 but prior to age 18 and receiving an adoption subsidy already may be allowed an extension of the adoption subsidy if requested by the family for the adoptive family to continue receiving the adoption subsidy payments on behalf of the child after the child turns 18 and up to age 21 as long as the family retains financial responsibility for the child, the child meets the same eligibility criteria as children eligible for the department's Extended Foster Care program and all other eligibility criteria for the original subsidy remain in effect. Ongoing eligibility must be reassessed by DCFS/CW quarterly, but renewal of the subsidy only completed annually. If notified by the family the child and family are no longer eligible or interested in receiving the extended subsidy; or, if at reassessment it is determined the child and family are no longer eligible for the extended subsidy, the subsidy shall be ended immediately.

E. – E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1790-1792 and P.L. 96-272 (Title IV-E).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Human Development, LR 4:388 (October 1978), repealed by the Department of Social Services, Office of Community Services, LR 18:79 (January 1992), promulgated and amended LR 18:966 (September 1992), amended by the Department of Children and Family Services, Division of Child Welfare, LR 45:

**§4903. Nonrecurring Expenses in Adoptions**

A. The Division of Child Welfare sets forth criteria for reimbursement of nonrecurring expenses associated with the adoption of children with special needs.

1. The amount of the payment made for nonrecurring expenses of adoption shall be determined through agreement between the adopting parent(s) and the Division of Child Welfare. The agreement must indicate the nature and amount of the nonrecurring expenses to be paid.

2. - 3. ...

4. To be eligible, the child must meet the criteria previously established by the Division of Child Welfare to be designated as a "child with special needs". Furthermore, the child must have been placed for adoption in accordance with applicable state laws.

5. - 6. ...

7. Reimbursement is limited to costs incurred by or on behalf of adoptive parents that are not otherwise reimbursed from other sources. Payments for nonrecurring expenses shall be made directly by the Division of Child Welfare.

8. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 1356, as published in the Federal Register on December 14, 1988, Section 1711 of the Tax Reform Act of 1986 as it relates to the Adoption Assistance Program under Title IV-E, and Act 345 of the 1990 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:386 (April 1991), amended by the Department of Children and Family Services, Division of Child Welfare, LR 45:

**Chapter 51. Adoption Petition Program**

**§5101. Certificate of Adoption in Private Adoptions**

A. - C.2.b. ...

c. Attorneys representing prospective adoptive couples living in Louisiana for private adoptions must request the court having jurisdiction to order a Louisiana child abuse/neglect records check from the Division of Child Welfare's Regional Office for the parish of residence of the prospective adoptive couple with the results of said check to be submitted in writing to the court. The court order shall be sent to the attention of the Adoption Petition Unit.

d. The mailing addresses of the regional offices of the Division of Child Welfare where this form may be obtained are as follows:

i. Greater New Orleans;

(a). Jefferson District, Box 10009, Jefferson, LA, 70181;

(b). Orleans District, Regional Office, 1450 Poydras Street, Suite 1600, New Orleans, LA, 70112;

ii. Baton Rouge Regional Office, Box 3318, Baton Rouge, LA 70821;

iii. Lafayette Regional Office, 825 Kaliste Saloom Rd, Lafayette, LA 70508;

iv. Lake Charles Regional Office, Box 1486, Lake Charles, LA 70602;

v. Alexandria Regional Office, Box 8557, Alexandria, LA 71306;

vi. Shreveport Regional Office, 1525 Fairfield Avenue, Shreveport, LA 71101-4388;

vii. Monroe Regional Office, Box 3047, Monroe, LA 71210;

viii. Thibodaux Regional Office, 1416 Tiger Drive, Thibodaux, LA 70301;

ix. Covington Regional Office, 351 Holiday Blvd., Covington, LA 70433.

C.2.e. - f. ...

D. The Department of Children and Family Services, Division of Child Welfare in carrying out the duties as detailed in the Children's Code, Title XII, Chapter 10, Article 1229 (A) shall include in the report to the court a copy of the Certificate of Adoption for the prospective adoptive couple or report to the court in writing that no Certificate of Adoption has been obtained in accordance with the Louisiana Children's Code.

AUTHORITY NOTE: Promulgated in accordance with the Children's Code, Title XII, Chapter 2.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 18:747 (July 1992), amended by the Department of Children and Family Services, Division of Child Welfare, LR 45:

#### **§5103. When the Petitioner Is the Stepparent of the Adoptee**

A. DCFS/CW shall no longer provide a full investigation and court report in stepparent adoptions unless so ordered by the court. Henceforth, adoption petition workers shall investigate stepparent adoptions only to the extent necessary. The investigation shall:

A.1. – B.2.b.vi. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:427.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Human Development, Division of Evaluation and Services, LR 10:342 (April 1984), amended by the Department of Children and Family Services, Division of Child Welfare, LR 45:

#### **§5105. Intercountry Adoptions**

A. The Department of Children and Family Services, Division of Child Welfare, hereby adopts Interountry Adoptions Policy. This policy authorizes certain consenting licensed private child placing agencies to conduct and certify the validity of home studies; to contract with qualified professionals to complete home studies; and to certify the validity of home studies completed by professionals under contract with them to complete home studies; certifying to the U.S. Immigration and Naturalization Service that the Louisiana prerequisite of a valid home study has been completed as required before an intercountry adoption can be consummated.

AUTHORITY NOTE: Promulgated in accordance with the United States Immigration and Nationality Act of 1952, as amended (Title 8, U.S.C. aliens and nationality).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Human Development, LR 7:408 (August 1981), amended by the Department of Children and Family Services, Division of Child Welfare, LR 45:

#### **Family Impact Statement**

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

#### **Small Business Statement**

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

#### **Provider Impact Statement**

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

#### **Public Comments**

All interested persons may submit written comments through November 25, 2019, to Rhenda Hodnett, Assistant Secretary of Child Welfare, Department of Children and Family Services, P. O. Box 3318, Baton Rouge, LA, 70821.

#### **Public Comments**

A public hearing on the proposed rule will be held on November 25, 2019 at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA beginning at 10 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Marketa Garner Walters  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Adoption Subsidy Program and Adoption Petition Program**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule is anticipated to increase the expenses of DCFS by \$106,898 (\$51,825 SGF and \$55,073 Federal Funds) in FY 20 and \$256,556 (\$124,381 SGF and \$132,175 Federal Funds) in FY 21, which will be annualized in future fiscal years.

The proposed rule updates the income scale for determining eligibility for a non-Title IV-E funded adoption subsidy from 115 percent of Louisiana's median income to 60 percent to reflect the existing policy of the agency. This proposed rule change also extends the adoption subsidy to the age of 21 for certain youth that initially were adopted at age 16 or over. The average cost to provide an adoption subsidy is \$403.39 per month per child. DCFS anticipates extending the adoption subsidy to 53 youths in FY 20. The projected cost in FY 20 is \$106,898 (53 youths x 5 months x 403.39 per month) and \$256,556 in FY 21 (53 youths x 12 months x 403.39 per month).

The adoption subsidy is funded with 52 percent state funds and 48 percent Title IV-E federal funds.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The adoption subsidy is funded with 48 percent federal IV-E funds. Therefore, the proposed rule change will result in an increase in Title IV-E federal funds collections for DCFS in the amount of \$55,073 in FY 20 and \$132,175 in FY 21, which will be annualized in future fiscal years.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The economic benefit to certain adopted youth and their adoptive parents is continued financial support of an average of \$403.39 per month until the youth reaches the age of 21.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to have an effect on competition. However, the continued financial support for the care of these youth will help the families in continuing to guide these youth in developing the potential to become employable and add to the state workforce/tax base.

Rhenda Hodnett  
Assistant Secretary  
1910#057

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Children and Family Services Division of Child Welfare

State Central Registry (LAC 67:V.1103)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:V, Subpart 3, Child Protective Services, Chapter 11, Section 1103.

Pursuant to R.S. 40:2008.10, information on individuals listed on the State Central Registry will be released for therapeutic group homes licensed or applying for licensure by the Louisiana Department of Health (LDH). The information will be released in accordance with the rule and upon receipt of a written request containing the individual's consent, and payment of the SCR clearance fee.

#### Title 67

#### SOCIAL SERVICES

#### Part V. Child Welfare

#### Subpart 3. Child Protective Services

#### Chapter 11. Administration and Authority

#### §1103. State Central Registry

A. - G.11. ...

12. DCFS will disclose to a therapeutic group home licensed by the Louisiana Department of Health (LDH), or applicant for a license from LDH, information on perpetrators of child abuse and/or neglect who are listed on the state central registry upon receipt of the \$25 fee for the clearance; and, the individual's written and signed consent for the following:

- a. any person who owns, operates or manages a licensed therapeutic group home;
- b. any person who has applied for a license to operate a therapeutic group home;
- c. any person who is employed by, is contracted by, volunteers at, or interns with a therapeutic group home;
- d. any person who has applied to be employed or contracted by a therapeutic group home;
- e. any person who has applied to volunteer or intern with a therapeutic group home.

13. The information on the SCR for the above persons may be released to the LDH as required for LDH licensure of the therapeutic group home. This release shall not apply to contractors and other individuals providing a service at the therapeutic group home who are not employees, volunteers, interns, or contracted members of the staff of the therapeutic group home, including but not limited to plumbers, landscapers, or visiting resources.

**AUTHORITY NOTE:** Promulgated in accordance with the Children's Code, title VI, articles 615 and 616 and title XII, article 1173, R.S. 14:403(H), R.S. 46:51.2(A), R.S. 46:56, R.S. 46:1414.1, 42 USC 15601 et seq., 28 CFR 115.6., 42 USC 9858f and R.S. 40:2008.10.

**HISTORICAL NOTE:** Promulgated by the Department of Social Services, Office of Community Services, LR 18:79 (January 1992), amended LR 20:198 (February 1994), LR 21:583 (June 1995), LR 23:590 (May 1997), LR 26:790 (April 2000), LR 31:1609 (July 2005), LR 36:838 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Child Welfare Section, LR 42:862 (June 2016), amended by the Department of Children and Family Services, Division of Child Welfare, LR 44:998 (June 2018), effective July 1, 2018, amended LR 45:217 (February 2019), LR 45:

#### Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

#### Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

#### Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

#### Public Comments

All interested persons may submit written comments through November 25, 2019, to Rhenda Hodnett, Assistant Secretary of Child Welfare, Department of Children and Family Services, P. O. Box 3318, Baton Rouge, LA 70821.

#### Public Hearing

A public hearing on the proposed Rule will be held on November 25, 2019, at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-129, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Marketa Garner Walters  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: State Central Registry

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will permit the release of information in the State Central Registry (SCR) to therapeutic group homes licensed by the Louisiana Department of Health (LDH) and applicants for a license from LDH, as required by Act 243 of the 2019 RLS.

The proposed rule change is anticipated to increase expenditures for the Department of Children and Family Services (DCFS) by approximately \$6,278 SGF in FY 20

associated with the publication of the proposed rule (\$1,278) and to make technical changes to the SCR to allow for release of this information (\$5,000). It is not anticipated that any other state or local governmental units will incur costs or savings as a result of this rule change.

## II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

DCFS is anticipated to generate approximately \$1,550 (62 requests x \$25 fee) in revenue in FY 20 for DCFS and \$3,750 (150 requests x \$25 fee) in future fiscal years as a result of this rule change.

DCFS charges a fee of up to \$25 to conduct SCR background checks. DCFS anticipates receiving 62 requests for background check from therapeutic group homes licensed by LDH in FY 20 and 150 annual requests in future fiscal years.

## III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There may be an economic cost to individuals included in the SCR given that it will limit their opportunity to own, operate, or work in therapeutic group homes licensed by LDH. However, individuals have the right to appeal any investigative findings before it would impact their own, operate, or work in one of these facilities.

## IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The implementation of this Rule may reduce the number of available owners, operators, managers, employees, contractors, volunteers and interns in therapeutic group homes licensed by LDH given that individuals included in the SCR will likely be unemployable in these facilities.

Rhenda Hodnett  
Assistant Secretary  
1910#058

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Economic Development Office of Entertainment Industry Development

#### Motion Picture Production Tax Credit Program (LAC 61:I.6105 and 6107)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Economic Development proposes to amend the rules for the Motion Picture Production Tax Credit Program, R.S. 47:6007 et seq., to refine existing guidelines for reserving and issuing tax credits required by portions of Act 309 of the 2017 Regular Session of the Louisiana Legislature.

### Title 61

### REVENUE AND TAXATION

#### Part I. Taxes Collected and Administered by the Secretary of Revenue

#### Chapter 61. Motion Picture Production Tax Credit Program

#### §6105. Definitions

A. - B. ...

\*\*\*

*Completion Notification*—the date all required steps for certification of credits are complete, as confirmed in writing by the department.

\*\*\*

*Released Credits*—tax credits provisionally allocated to motion picture production companies in initial certification letters, which are subsequently unused, released and made available for re-allocation or issuance by the department.

\*\*\*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:6007.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:53 (January 2010), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 43:300 (February 2017), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 45:

#### §6107. Certification Procedures

A. - C.5.b.iii. ...

c. Released credits. Tax credits provisionally allocated to motion picture production companies in initial certification letters, which are subsequently unused by their original holders, may be released and made available for re-allocation or issuance by the department. Any release of credits shall be in writing and where possible, may be agreed to between the department and the motion picture production company, except that:

i. The department reserves the right to release credits for effective administration of the annual program issuance cap, by releasing provisionally allocated credits on May 1 of any given fiscal year, for productions with a reservation in that fiscal year but lacking a supporting expenditure verification report on file with the department. After consideration of all relevant factors, the department may issue a revised initial certification letter provisionally allocating credits in the next available fiscal year, and/or, where appropriate, directly issue tax credits in a final certification letter from released credits, according to the provisions of Paragraph D.4 of this Section.

D. - D.4.c. ...

d. If the QEC cap is not met in any fiscal year, any residual credits shall carry forward for use in subsequent years and may be granted in addition to the QEC cap for each year.

e. If the total amount of credits applied for in any particular year exceeds the total or general cap for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

f. Use of released credits. Released credits shall be available for re-allocation or issuance by the department as follows:

i. Credits released throughout the year shall be made available periodically at the discretion of the department as released credits accumulate, for re-allocation or issuance to qualifying applicants on a first come first served basis, as determined by the completion notification date.

(a). However, any applicants who have received completion notifications on the same business day shall be treated as received at the same time.

(b). For purposes of this section, a completion notification shall be issued in writing and only upon confirmation by the department that a motion picture

production company has completed all required steps for certification of credits, including but not limited to submission of an expenditure verification report and all necessary support documentation, and payment in full of any CPA fees.

ii. To qualify for issuance of credits from the released credits, motion picture production companies shall lack a tax credit reservation, or the necessary amount of tax credit reservation, for issuance of final certification in the requested fiscal year.

iii. If the total amount of released credits available for re-issuance meets or exceeds the amount of requested credits, the department shall make payment in full to all qualifying applicants.

iv. If the total amount of released credits available for re-issuance is less than the total amount of requested credits, the department shall issue credits in full to all qualified applicants on a first come, first served basis, as determined by the completion notification date. Any requests that cannot be paid in full will remain eligible for payment at a later date, on a first come, first served basis, as determined by the completion notification date, subject to availability of released credits. Partial payments will not be made.

E – E.3 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:55 (January 2010), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, LR 37:514 (February 2011), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 42:39 (January 2016), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 45:

#### **Family Impact Statement**

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### **Poverty Statement**

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

#### **Provider Impact Statement**

The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.

#### **Small Business Analysis**

The proposed Rule is not anticipated to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

#### **Public Comments**

Interested persons should submit written comments on the proposed rules to Stephen Hamner through the close of business on Monday, November 25, 2019 at 617 North 3<sup>rd</sup> Street, 11<sup>th</sup> Floor, Baton Rouge, LA 70802 or via email to [stephen.hamner@la.gov](mailto:stephen.hamner@la.gov).

#### **Public Hearing**

A meeting for the purpose of receiving the presentation of oral comments will be held at 10 a.m. on Tuesday, November 26, 2019 at the La Salle Building, Griffon Room, 617 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa  
Undersecretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Motion Picture Production Tax Credit Program**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will not result in any additional savings or expenditures for state governmental units, as it refines existing guidelines for reserving and issuing tax credits required by portions of Act 309 of the 2017 Regular Session (See Part II). Any administrative duties brought about by the proposed rule change will be carried out utilizing existing staff and resources at the LA Dept. of Economic Development (LED).

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change allows for the reallocation of unused film tax credit reservations between firms by LED to the extent actual credit amounts needed are more or less than initial reservations. However, all credit reservation and issuance activity operates under a cap of \$150 M each fiscal year, established by Act 309 of the 2017 Regular Session for productions applying on or after July 1, 2017. Furthermore, film tax credit claims are capped at \$180 M each fiscal year. Because the reallocation is occurring under the auspices of the \$150 M credit issuance and \$180 M claims caps, aggregate revenues for the state will not be affected.

The proposed rule change will not affect local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Firms who are eligible for film tax credits may realize a reduction in tax liabilities to the extent they qualify for the credit and are able to receive additional credits to the extent other firms do not utilize the entirety of their initial film tax credit allocation.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

Companies receiving benefits under this program will continue to gain competitively over companies that do not receive the program's benefits.

Anne G. Villa  
Undersecretary  
1910#048

Gregory V. Albrecht  
Chief Economist

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletins 111, 118 and 741—English Language Proficiency  
(LAC 28:XI.409, 4001, 5701, 7301, 7307,  
7311, 8307, 8505 and CXV.351)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education proposes to amend LAC 28:XI, *Accountability/Testing*, Subpart 1, *Bulletin 111—The Louisiana School, District, and State Accountability System*; LAC 28:XI, *Accountability/Testing*, Subpart 3, *Bulletin 118—Statewide Assessment Standards and Practices*; and LAC 28:XXV, *Bulletin 741—Louisiana Handbook for School Administrators*. Proposed amendments clarify English Language Proficiency Test (ELPT) assessment procedures, including exit criteria for English learners with disabilities and the role of the Individualized Educational Program (IEP) team in the decision-making process; procedures for requesting ELPT accommodations and exemptions; and ELPT weighting for purposes of calculating a Grade 9-12 Assessment Index. The proposed amendments also establish a standardized process for identifying English learners as required by federal law and Louisiana's approved Every Student Succeeds Act (ESSA) state plan. Finally, the proposed amendments delineate LEA obligations to identify and serve English learners in accordance with federal law.

#### Title 28 EDUCATION

##### Part XI. Accountability/Testing

##### Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System

##### Chapter 4. Assessment and Dropout/Credit Accumulation Index Calculations

##### §409. Calculating a 9-12 Assessment Index [Formerly LAC 28:LXXXIII.409]

A. - B.3.a. ...

b. For students first identified in kindergarten through fifth grade, consider the initial ELPT proficiency level and number of years identified using the following table.

\* \* \*

c. - d. ...

4. The level of progress on the ELPT assessment shall be included in the high school assessment index for each English learner according to the following table.

\* \* \*

5. Weight each ELP index score by two.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006), amended LR 33:252 (February 2007), LR 36:1989 (September 2010), LR 37:2118 (July 2011), repromulgated LR 37:2382 (August 2011), amended LR 37:3200 (November 2011), LR 38:1212 (May 2012), LR 38:2357 (September 2012), LR 38:3106 (December 2012), LR 39:305 (February 2013), LR 39:1421 (June 2013), LR 40:1314 (July 2014), LR 41:2579 (December 2015), LR 42:548 (April 2016), LR 44:448 (March 2018), LR 45:222 (February 2019), LR 45:

##### Chapter 40. Definitions Related to English Proficiency §4001. Proficient in English

##### [Formerly LAC 28:LXXXIII.4001]

A. To be considered English proficient and exit English learner (EL) status, an EL student must score level 4 (early advanced) or level 5 (advanced) on all four ELPT domains:

1. - 4. ...

B. In order for a student to receive an approval for exemption from one or more than one domains, schools must submit an official request, including documentation for the request, no later than 30 days prior to the opening of the testing window.

C. Accommodations for the English Language Proficiency Test (ELPT) should be documented on a student's Individual Education Plan (IEP), Individual Academic Plan (IAP), or English Learner (EL) Checklist no later than 30 days prior to the opening of the testing window.

D. Students with disabilities who are unable to meet the above exit criteria after four years or more in EL status, and whose disability impacts language acquisition may be reclassified and exempt from future ELPT participation, but will be required to take statewide assessments. In such cases, the IEP team determines that the student's disability directly impacts language acquisition; then, the student's reclassification and exit is decided by consensus of the members of the School Building Level Committee (SBLC). Students with significant cognitive disabilities who meet the participation criteria for LEAP Connect may be reclassified and exited sooner until such time as an alternate ELPT is available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:767 (April 2004), amended LR 33:254 (February 2007), LR 34:2552 (December 2008), LR 36:2243 (October 2010), LR 38:3115 (December 2012), LR 44:460 (March 2018), LR 45:

## Chapter 57. Assessment Program Overview

### §5701. Overview of Assessment Programs in Louisiana

#### [Formerly LAC 28:CXL701]

#### A. Norm-Referenced and Criterion-Referenced Testing Programs Since 1986

Name of Assessment Program	Assessment Population	Administered
<b>Kindergarten Screening</b>		
* * *		
<b>Integrated NRT/CRT</b>		
Integrated Louisiana Educational Assessment Program (iLEAP) (science and social studies)	grades 3, 5, 7	spring 2006-2017
* * *		
Louisiana Alternate Assessment-B (LAA-B) ["out-of-level" test]	Students with Individualized Education Programs (IEPs) who met eligibility criteria in grades 3-11.	spring 1999– spring 2003 (no longer administered)
English Language Proficiency Test (ELPT)	English Learners (EL) in grades K-12	Beginning spring 2018
* * *		
Academic Skills Assessment (ASA) and ASA LAA 2 form	Students pursuing a State-Approved Skills Certificate (SASC) or GED	spring 2012 (one administration only, spring 2012)

#### B. ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1534 (July 2005), amended LR 32:235 (February 2006), LR 34:66 (January 2008), LR 34:1352 (July 2008), LR 35:218 (February 2009), LR 36:967 (May 2010), LR 37:858 (March 2011), LR 38:34 (January 2012), LR 39:74 (January 2013), LR 39:1019 (April 2013), LR 40:1319 (July 2014), LR 40:2512 (December 2014), LR 44:465 (March 2018), LR 44:2127 (December 2018), LR 45:

#### Subpart 3. Bulletin 118—Statewide Assessment Standards and Practices

### Chapter 73. English Language Proficiency Test (ELPT)

#### Subchapter A. Background

### §7301. Overview

#### [Formerly LAC 28:CXL2301]

A. The federal Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeed Act (ESSA), requires standards-based assessment of the progress of all English learners enrolled in grades kindergarten through 12 in attaining English proficiency, including a student's level of comprehension, speaking, listening, reading, and writing skills in English.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1557 (July 2005), amended LR 33:259 (February 2007), LR 44:474 (March 2018), LR 45:

#### Subchapter C. Target Population

### §7307. Participation Criteria

#### [Formerly LAC 28:CXL2307]

A. English Learners (ELs) are to be identified through a two-step standardized process.

1. Upon enrollment in school, parents or custodians are provided with a Home Language Survey (HLS) designed to identify which students are potential English Learners and therefore require an assessment of their English language proficiency.

2. If an assessment is required, LEAs must administer the English Language Proficiency Screener (ELPS), which assesses proficiency in all 4 language domains (speaking,

listening, reading, and writing) within 30 days of the student's enrollment to determine if he or she is eligible for English Learner status. If a student is determined to be less than proficient in any of the four language domains, the student must be classified an English Learner.

B. *English Learner* definition. A student identified as an English learner must:

1. be between the age of 3 through 21;
2. be enrolled in an English-speaking elementary school or secondary school;
3. not have been born in the United States or has a native language other than English; and
4. have difficulties in speaking, reading, writing, or understanding the English language such that such challenges may be sufficient to deny them:
  - a. the ability to meet the state's proficient level of achievement on state assessments;
  - b. the ability to successfully achieve in classrooms where the language of instruction is English; or
  - c. the opportunity to participate fully in society.

C. A student identified as an English learner may be:

1. A Native American, Alaska Native, or a native resident of the outlying areas and comes from an environment where a language other than English has had significant impact on his or her level of English language proficiency; or
2. Be migratory, having a native language other than English, and come from an environment where a language other than English is dominant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:259 (February 2007), amended LR 44:474 (March 2018), LR 45:

#### Subchapter D. Performance Levels and Proficiency Standards

### §7311. Proficiency Standards

#### [Formerly LAC 28:CXL2311]

A. Performance standards for English proficiency in listening, speaking, reading, and writing tests are finalized in scaled-score form. The scaled-score ranges vary per grade and grade band.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:260 (February 2007), amended LR 34:2556 (December 2008), repromulgated LR 35:61 (January 2009), LR 44:474 (March 2018), LR 45:

## **Chapter 83. Assessment of Special Populations**

### **§8307. English Language Learners**

#### **[Formerly LAC 28:CXL3307]**

A. All EL must participate in statewide assessments. EL qualify for accommodations. Test accommodations must not be different from or in addition to the accommodations provided in the classroom during instruction and assessment and must not compromise test security or confidentiality. Accommodations must be documented on an EL accommodation form.

B. English learner—an individual:

1. - 6.c. ...

C. Approved Accommodations for English learners

1. - 1.a. ...

b. Provision of English/Native Language Word-to-Word Dictionary (No Definitions). English Learners may use either a standard or an electronic English/native language word-to-word dictionary, without definitions, on all sessions of the test.

C.1.c. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:1941 et seq., and R.S. 17:24.4(F)(3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1562 (July 2005), amended LR 32:240 (February 2006), LR 33:264 (February 2007), LR 33:1010 (June 2007), LR 36:983 (May 2010), LR 37:821 (March 2011), LR 41:616 (April 2015), LR 44:478 (March 2018), LR 45:

## **Chapter 85. Assessment of Students in Special Circumstances**

### **§8505. Foreign Exchange Students**

#### **[Formerly LAC 28:CXL3505]**

A. ...

B. If foreign exchange students are screened and determined to be English learners, they may qualify for test accommodations provided they are used in the student's regular classroom instruction and assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:151.3 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1563 (July 2005), amended LR 34:2557 (December 2008), repromulgated LR 35:62 (January 2009), LR 38:37 (January 2012), LR 45:

## **Part CXV. Bulletin 741—Louisiana Handbook for School Administrators**

### **Chapter 3. Operation and Administration**

#### **§351. English Learners**

A. LEAs must establish a written policy to provide for the placement in school and for the education of any child who is English learner.

B. English Learners (EL) definition. A student identified as an English learner must:

1. be between the age of 3 through 21;

2. be enrolled in an English-speaking elementary school or secondary school;

3. not have been born in the United States or has a native language other than English; and

4. have difficulties in speaking, reading, writing, or understanding the English language such that such challenges may be sufficient to deny them:

a. the ability to meet the state's proficient level of achievement on state assessments;

b. the ability to successfully achieve in classrooms where the language of instruction is English; or

c. the opportunity to participate fully in society.

C. A student identified as an English learner may be:

1. Native American, Alaska Native, or a native resident of the outlying areas and comes from an environment where a language other than English has had significant impact on his or her level of English language proficiency; or

2. migratory, having a native language other than English, and come from an environment where a language other than English is dominant;

D. LEAs must identify within thirty (30) days of school enrollment students in need of specialized language assistance programs. The state approved standardized entrance and exit procedures must be followed, as referenced in LAC 28:CXI.

E. Each LEA must include in its policy a plan to serve English Learners (EL), regardless of whether they have students who meet this classification enrolled. In the policy, the LEA must outline how it will:

1. implement the state-approved standardized entrance and exit procedures which include the statewide approved screener;

2. design an effective program reflective of their needs;

3. staff EL specialized language programs with certified English Learner teachers, bilingual personnel, or both;

4. align instruction of ELs to state academic content standards;

5. ensure participation in the English Language Proficiency Test (ELPT); and

6. adhere to state-approved procedures to reclassify and exit from EL status once students have met the state approved exit criteria.

F. LEAs must ensure the same standards that the U.S. Department of Education Office of Civil Rights and the U.S. Department of Justice apply when evaluating whether their chosen EL program meets the civil rights requirements.

G. In addition to offering equal access to the core curriculum, LEAs must provide ELs with equal opportunities to participate meaningfully in all programs and activities, whether curricular, co-curricular, or extracurricular.

H. The Individuals with Disabilities Education Act (IDEA) and section 504 of the Rehabilitation Act of 1973 address the rights of students with disabilities in school and other educational settings. If an EL is suspected of having one or more disabilities, the LEA must evaluate the student promptly to determine if the EL has a disability or disabilities and whether the student needs special education and related services. Evaluations for special education and related services may not be delayed because of a student's language proficiency or the student's participation in a specialized language program. A student's classification as



EL cannot be the basis for determining if the student has a disability.

I. LEAs have the obligation to communicate meaningfully with parents who have limited English proficiency skills and to adequately notify them of information about any program, service, or activity called to the attention of non-EL parents. LEAs must have a process to identify parents with limited English skills and provide them with free and effective language assistance, such as translated materials or an appropriate and trained interpreter.

**AUTHORITY NOTE:** Promulgated in accordance with La. Const. Art. VIII §1 and §3; R.S. 17:6; R.S. 17:7; R.S. 17:111; R.S. 17:151; R.S. 17:172; R.S. 17:1941, et seq.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 45:

#### **Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No
3. Will the proposed Rule affect the functioning of the family? No
4. Will the proposed Rule affect family earning and family budget? No
5. Will the proposed Rule affect the behavior and personal responsibility of children? No
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes

#### **Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word “poverty” means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes
3. Will the proposed Rule affect employment and workforce development? No
4. Will the proposed Rule affect taxes and tax credits? No
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No

#### **Small Business Analysis**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not

expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until noon, November 9, 2019, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Bulletins 111, 118 and 741 English Language Proficiency**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is an indeterminable impact to the Department of Education (LDE) and local school districts. The proposed amendments clarify English Language Proficiency Test (ELPT) assessment procedures, including exit criteria for English learners with disabilities and the role of the Individualized Educational Program (IEP) team in the decision-making process; procedures for requesting ELPT accommodations and exemptions; and ELPT weighting for purposes of calculating a Grade 9-12 Assessment Index. The proposed amendments also establish a standardized process for identifying English learners as required by federal law and Louisiana’s Every Student Succeeds Act (ESSA) state plan. Finally, the proposed amendments delineate LEA obligations to identify and serve English learners in accordance with federal law. The LDE and local school districts could experience savings in the cost of assessments as a result of potential student exemptions from one or more language domains. Potential savings will depend upon the number of exemptions requested and granted, and are indeterminable at this time.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed policy revisions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment as a result of the proposed revisions.

Beth Scioneaux  
Deputy Superintendent  
1910#038

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Certifications and Endorsements (LAC 28:CXXXI.101)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education proposes to amend LAC 28:CXXXI, Bulletin 746—Louisiana Standards for State Certification of School Personnel. Proposed amendments ensure that certification policies, adopted by BESE, and administered by the LDE, are implemented in a manner that allows for a smooth transition from old to new score requirements. These revisions further detail specific timelines and implementation dates regarding Praxis exam passing score increases and decreases.

**Title 28  
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel**

**Chapter 1. Introduction**

**§101. Purpose**

A. - B. ...

C. Certification policies are adopted and implemented in a manner, and with a timeline, that allows for a smooth transition from old to new requirements. Any certification change made by the BESE will include implementation dates to be specified at the time of recommendation to the BESE for action. In particular:

1. if the passing score for a specific PRAXIS exam increases, there will be a 12-month period from the date of adoption by the BESE to the effective date;

2. if the passing score for a specific PRAXIS exam decreases, scores achieved up to 12 months prior to the effective date adopted by the BESE will be accepted.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1782 (October 2006), amended LR 43:1290 (July 2017), LR 45:

**Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earning and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

**Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word “poverty” means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed rule affect employment and workforce development? No.

4. Will the proposed rule affect taxes and tax credits? No.

5. Will the proposed rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

**Small Business Analysis**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

**Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of

2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until noon, November 9, 2019, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel Certifications and Endorsements**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no anticipated impacts to the Department of Education or local school districts as a result of the proposed rule change which details specific timelines and implementation dates regarding Praxis exam passing scores. Currently, such changes allow for a 12-month period from the date of adoption to the effective date.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Individuals required to complete the Praxis in order to receive certification will benefit from the change. Proposed rule provides for a prospective 12-month window to allow for increases in passing scores. (Individuals earning at least the old score between the date of adoption and the effective date will pass.) The changes will also provide a 12-month window prior to the effective date for scores which have decreased. (Individuals earning a score of at least the new score but less than the old score during this window will pass.)

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There may be an increase in the number of certificated teachers available for placement in classrooms as a result of the rule changes, however, any such increase is indeterminable.

Beth Scioneaux  
Deputy Superintendent  
1909#036

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Board of Elementary and Secondary Education**

Bulletin 1566—Pupil Progression Policies and Procedures  
Regular Placement—Summer Remediation  
(LAC 28:XXXIX.503, 705, 707, and 901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education proposes to amend *Bulletin 1566—Pupil Progression Policies and Procedures*. The proposed amendments remove requirement that school systems offer summer remediation to students who perform below expectations on state assessments, noting that such remediation programs may still be offered voluntarily and that all such students must be supported through individual academic improvement plans that address areas of academic weakness, in accordance with Act 394 of the 2019 Regular Legislative Session.

#### **Title 28**

#### **EDUCATION**

### **Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures**

#### **Chapter 5. Placement Policies—General Requirements**

#### **§503. Regular Placement**

A. - B.1.a. ...

b. any first-time eighth grade student who does not meet the passing standard set forth in §703 of this bulletin and any student not eligible for any waiver pursuant to §707 of this Part, may be placed on a high school campus in transitional ninth grade;

c. - e. ...

f. the following shall govern the transitional ninth grade:

i. for any student who recently completed the eighth grade and is transferring into the LEA from another state or country after summer remediation, if summer remediation is offered, the LEA shall review the student's academic record to determine appropriate placement in ninth grade or transitional ninth grade. Such placement shall occur no later than October 1 of each school year.

B.1.f.ii. - E.1.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, and 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 2000), amended LR 26:1433 (July 2000), LR 26:1576 (August 2000), LR 27:188 (February 2001), LR 27:1006 (July 2001), LR 27:1682 (October 2001), LR 29:123 (February 2003), LR 30:407 (March 2004), LR 31:1974 (August 2005), LR 31:3103 (December 2005), LR 33:2063 (October 2007), LR 34:2389 (November 2008), LR 36:2003 (September 2010), LR 40:765 (April 2014), LR 40:1332 (July 2014), LR 40:2533 (December 2014), LR 41:1271 (July 2015), LR 44:480 (March 2018), LR 44:1003 (June 2018), LR 44:2131 (December 2018), LR 45:

#### **Chapter 7. Promotion and Support Policy**

#### **§705. Supports for Students**

##### **A. Summer Remediation**

1. LEAs may offer extended, on-grade level instruction through summer remediation to students who,

based on a preponderance of evidence of student learning, are considered to be academically struggling, did not take the spring LEAP tests, and failed to meet the standard set forth in §701 and §703 of this Part. The LEA shall provide transportation to and from the assigned LEAP remediation summer site(s) from, at a minimum, a common pick-up point.

2. - 3.b....

c. Repealed.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17.7, and 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2005 (September 2010), amended LR 40:2533 (December 2014), LR 44:482 (March 2018), LR 44:1004 (June 2018), LR 45:

#### **§707. Exceptions to Promotion and Support Policy for Eighth Grade Students**

A. - A.1. ...

2. the student has participated in the spring administration of LEAP and has attended a summer remediation program offered by the LEA; and

A.3. - B.4. ...

5. the student has participated in the spring administration of LEAP and has attended a summer remediation program offered by the LEA; and

6. ...

C. AB/AB Waiver. An LEA, through its superintendent, may consider a waiver for a student who has scored at the approaching basic level on both the English language arts and mathematics components of LEAP. The LEA may grant the waiver in accordance with the local pupil progression plan provided the following criteria are met.

1. The student has attended a LEAP summer remediation program offered by the LEA.

D. - F.4.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17.7, and 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2006 (September 2010), amended LR 40:2242 (November 2014), LR 44:482 (March 2018), LR 44:1004 (June 2018), LR 45:

#### **Chapter 9. Appendix**

##### **[Formerly Chapter 11]**

#### **§901. Definition of Terms**

##### **[Formerly §1101]**

A. As used in this bulletin, the terms shall be defined as follows.

1. State Terms

\* \* \*

*LEAP Summer Remediation Program*—a summer school program offered by the LEA for the specific purpose of preparing students to achieve proficiency in English language arts, mathematics, science, and/or social studies.

\* \* \*

2. - 2.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17.7, and 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2176 (November 1999), amended LR 27:190 (February 2001), LR 31:1976 (August 2005), LR 33:2064 (October 2007), amended LR 36: 2010 (September 2010), LR 44:483 (March 2018), LR 45:

#### **Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. All family impact statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earning and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### **Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, amendment, or repeal. All poverty impact statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed rule affect employment and workforce development? No.

4. Will the proposed rule affect taxes and tax credits? No.

5. Will the proposed rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Analysis**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Provider Impact Statement**

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

#### Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, November 9, 2019, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Bulletin 1566—Pupil Progression Policies and Procedures Regular Placement—Summer Remediation

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no impact to the Department of Education. The impact on the expenditures of local school districts is indeterminable. The proposed revisions provide additional flexibility to the districts with respect to student remediation.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change will have no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Charter schools, which are also public schools, will experience impacts similar to the local school districts as a result of the proposed revisions. Any savings will vary by school and are indeterminable at this time.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1909#037

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Board of Regents Office of Student Financial Assistance

#### Scholarship/Grant Programs—TOPS Exceptions (LAC 28:IV.703)

The Louisiana Board of Regents announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S.17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5, and R.S. 17:3048.6).

This rulemaking adds several Cambridge University courses in the TOPS core curriculum and adds some of those as Honors courses that may be graded on a 5.0 scale for graduates of 2018 and later. (SG20188NI)

#### Title 28

#### EDUCATION

#### Part IV. Student Financial Assistance—Higher Education

#### Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

#### §703. Establishing Eligibility

A. - A.5.a.ii.(d)(iii). ...  
\* \* \*

(e). For students graduating in academic year (high school) 2017-2018 and after, for purposes of satisfying the requirements of §703.A.5.a.i. above, or §803.A.6.a., the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

TOPS Core Course	Equivalent (Substitute) Course
Algebra I, Geometry, and Algebra II	Integrated Mathematics I, II, and III
Algebra III	Additional Math: Cambridge IGCSE
Algebra III; Advanced Math- Functions and Statistics, Advanced Math-Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL	AP Computer Science A
Arabic	Arabic: Cambridge AICE-AS
Art	Media Arts I-IV; Photography I, Photography II, and Digital Photography; Digital Image and Motion Graphics; Digital Storytelling; Engineering Design and Development; Sound Design
Biology II	Human Anatomy and Physiology Microbiology
IB Biology II	Biology II, Cambridge AICE-AS
Calculus I	Math 2 (Part I): Cambridge AICE – A Level
Calculus II	Math 2 (Part 2): Cambridge AICE- A Level
Chemistry II	Organic Chemistry I
IB Chemistry II	Chemistry II: Cambridge AICE – AS
Chinese	Chinese: Cambridge AICE-AS
Economics	Cambridge AICE-AS

TOPS Core Course	Equivalent (Substitute) Course
English I	English Language Part 1: Cambridge IGCSE English Literature Part 1: Cambridge IGCSE
English II	English Language Part 2: Cambridge IGCSE English Literature Part 2: Cambridge IGCSE
English III	English Language Part 1: Cambridge AICE-AS Literature in English Part 1: Cambridge AICE-AS
English IV	English Language Part 2: Cambridge AICE-AS Literature in English Part 2: Cambridge AICE-AS
Environmental Science	Environmental Awareness
European History	History European: Cambridge AICE-AS
Foreign Language, both units in the same language, which may include: AP Chinese Language and Culture, AP French Language and Culture, AP German Language and Culture, AP Italian Language and Culture, AP Japanese Language and Culture, AP Latin, AP Spanish Language and Culture, French IV IB, French V IB, Spanish IV IB, and Spanish V IB	Mandarin Chinese I, II, III, IV Hindi I, II, III, IV Portuguese I, II, III, IV Vietnamese I, II, III, IV
French	French: Cambridge AICE-AS
German	German: Cambridge AICE-AS
Japanese	Japanese: Cambridge AICE-AS
Physical Science	Principles of Engineering PLTW Principles of Engineering
Physics I	Physics I: Cambridge IGCSE
IB Physics II	Physics II: Cambridge AICE-AS
Pre-Calculus	Math 1 (Pure Math): Cambridge AICE-AS
Probability and Statistics	Statistical Reasoning Math 1 (Probability and Statistics): Cambridge AICE
Spanish	Spanish: Cambridge AICE-AS
Spanish IV	Spanish Literature: Cambridge ACE
Western Civilization, European History or AP European History; World Geography, AP Human Geography, or IB Geography; World History, AP World History, or World History IB; History of Religion; IB Economics Economics, AP Macroeconomics AP Microeconomics	AP Psychology
World Geography	Physical Geography Geography: Cambridge AICE-AS
World History	History International: Cambridge AICE-AS

TOPS Core Course	Equivalent (Substitute) Course
Any listed core course or its equivalent	Any core curriculum course taken by a student who has been deemed to be gifted and talented pursuant to R.S. 17:1941 et. seq. as implemented in State Board of Elementary and Secondary Education policy and in fulfillment of the student's Individualized Education Program shall be considered a gifted and talented course and shall fulfill the core curriculum requirement in its given subject area.

(f). For students graduating in academic year (high school) 2017-2018 and after, the courses listed in the tables below have been approved by the Board of Regents and the state Board of Elementary and Secondary Education to be converted to a 5.00 scale when used to complete the core curriculum, and shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a.

(i). Advanced Placement Courses

TOPS Core Course	Advanced Placement
Art	AP Art History AP Studio Art: 2-D Design AP Studio Art: 3-D Design AP Studio Art: Drawing
Biology II	AP Biology
Calculus	AP Calculus AB AP Calculus BC
Chemistry II	AP Chemistry
Chinese	AP Chinese Language and Culture
Economics	AP Macroeconomics AP Microeconomics
English III	AP English Language and Composition
English IV	AP English Literature and Composition
Environmental Science	AP Environmental Science
European History	AP European History
Fine Arts Survey	AP Music Theory
French	AP French Language and Culture
German	AP German Language and Culture
Italian	AP Italian Language and Culture
Japanese	AP Japanese Language and Culture
Latin	AP Latin
Physics I	AP Physics I: Algebra Based AP Physics II: Algebra Based AP Physics C: Electricity and Magnetism AP Physics C: Mechanics
Probability and Statistics	AP Statistics
Spanish	AP Spanish Language and Culture
US Government or Civics	AP U.S. Government and Politics: Comparative AP U.S. Government and Politics: United States
US History	AP U.S. History
World Geography	AP Human Geography
World History	AP World History

(ii). International Baccalaureate® Courses

TOPS Core Course	International Baccalaureate
Advanced Math–Pre Calculus	IB Math Studies (Math Methods)

TOPS Core Course	International Baccalaureate
Arabic	IB Language ab initio: Arabic IB Language B: Arabic
Art	IB Visual Arts
Biology II	IB Biology I IB Biology II
Calculus	IB Mathematics SL IB Mathematics HL
Chemistry II	IB Chemistry I IB Chemistry II
Chinese	IB Language ab initio: Chinese IB Language B: Chinese
Economics	IB Economics
English III	IB Literature IB Language and Literature IB Literature and Performance
English IV	IB Literature IB Language and Literature IB Literature and Performance
Environmental Science	IB Environmental Systems
French	IB Language ab initio: French IB Language B: French
German	IB Language ab initio: German IB Language B: German
Italian	IB Language ab initio: Italian IB Language B: Italian
Japanese	IB Language ab initio: Japanese IB Language B: Japanese
Latin	IB Classical Language
Music (Performance)	IB Music
Physics I	IB Physics I IB Physics II
Pre-Calculus	IB Math Studies (Math Methods)
Spanish	IB Language ab initio: Spanish IB Language B: Spanish
Theatre (Performance)	IB Film Study IB Theatre IB Dance
US History	IB History of the Americas I
World Geography	IB Geography
World History	IB History of the Americas II

(iii). Gifted and Talented Courses

TOPS Core Course	Gifted and Talented
Art	Art History Talented Visual Arts I Talented Visual Arts II Talented Visual Arts III Talented Visual Arts IV
Biology II	Biology II
Calculus	Calculus I Calculus II
Chemistry I	Chemistry I
Chemistry II	Chemistry II
Chinese	Chinese III Chinese IV
Economics	Economics
English III	English III
English IV	English IV
Environmental Science	Environmental Science
European History	European History
French	French III French IV
German	German III German IV
Italian	Italian III Italian IV

TOPS Core Course	Gifted and Talented
Japanese	Japanese III Japanese IV
Latin	Latin III Latin IV
Music (Performance)	Talented Music I, II, III, IV Small Voice Ensemble II Choir: Intermediate Choir: Advanced Orchestra: Intermediate Orchestra: Advanced
Physics I	Physics
Pre-Calculus	Pre-Calculus
Spanish	Spanish III Spanish IV
Theatre (Performance)	Introduction to Film Studies Talented Theater I, II, III, IV
US Government or Civics	Government
US History	U.S. History
World Geography	World/Human Geography

(iv). Dual Enrollment Courses

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Advanced Math–Pre Calculus	Trigonometry	CMAT 1223
Advanced Math–Functions and Statistics	Introductory Statistics	CMAT 1303
Algebra III	College Algebra	CMAT 1213
Arabic	Elementary Arabic I Elementary Arabic II	CARB 1013/1014 CARB 1023/1024
Art	Art History I or II Art Structure/2-D Design Beginning Drawing	CART 2103/2113 CART 1113 CART 2203
Biology I	General Biology I General Biology I (Science Majors)	CBIO 1013 CBIO 1033
Biology II	General Biology I General Biology I (Science Majors) General Biology II General Biology II (Science Majors) Human Anatomy & Physiology I Human Anatomy & Physiology I (Lec/Lab) Human Anatomy & Physiology II Human Anatomy & Physiology II (Lec/Lab)	CBIO 1013 CBIO 1033 CBIO 1023 CBIO 1043 CBIO 2213 CBIO 2214 CBIO 2223 CBIO 2224
Calculus	Applied Calculus Calculus I Calculus II	CMAT 2103 CMAT 2113-5 CMAT 2123-5
Chemistry I	General Chemistry Survey I Chemistry I Chemistry I (Science Majors)	CCEM 1013 CCEM 1103 CCEM 1123
Chemistry II	General, Organic and Biochemistry General Chemistry Survey I Chemistry I Chemistry I (Science Majors) Chemistry II Chemistry II (Science Majors)	CCEM 1003 CCEM 1013 CCEM 1103 CCEM 1123 CCEM 1113 CCEM 1133
Earth Science	Physical Geology Historical Geology	CGEO 1103 CGEO 1113
Economics	Economic Principles Macroeconomics Microeconomics	CECN 2113 CECN 2213 CECN 2223

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
English III	English Composition I	CENL 1013
	English Composition II	CENL 1023
	American Literature I	CENL 2153
	American Literature II	CENL 2163
	Major American Writers	CENL 2173
English IV	English Composition I	CENL 1013
	English Composition II	CENL 1023
	British Literature I	CENL 2103
	British Literature II	CENL 2113
	Major British Writers	CENL 2123
	World Literature I	CENL 2203
	World Literature II	CENL 2213
	Major World Writers	CENL 2223
	Introduction to Fiction	CENL 2303
	Introduction to Literature	CENL 2323
	Introduction to Poetry and/or Drama	CENL 2313
Environmental Science	Environmental Science	CEVS 1103
Fine Arts Survey	Exploring the Arts	CART 1013
	Introduction to Visual Arts	CART 1023
	Dance Appreciation	CDNC 1013
	Music Appreciation	CMUS 1013
French	Elementary French I	CFRN 1013/1014
	Elementary French II	CFRN 1023/1024
	Intermediate French I	CFRN 2013/2014
	Intermediate French II	CFRN 2023
German	Elementary German I	CGRM 1013/1014
	Elementary German II	CGRM 1023/1024
	Intermediate German I	CGRM 2013
	Intermediate German II	CGRM 2023
History Of Religion	World Religions	CPHL 2213
Latin	Elementary Latin I	CLTN 1013/1014
	Elementary Latin II	CLTN 1023/1024
	Intermediate Latin I	CLTN 2013
	Intermediate Latin II	CLTN 2023
Physical Science	Physical Science I	CPHY 1023
Physics I	Physics I (Algebra/Trigonometry Based)	CPHY 2113
	Physics I (Lecture and Lab)	CPHY 2114
	Physics I (Calculus Based)	CPHY 2133
Pre-Calculus	Algebra and Trigonometry	CMAT 1233
Probability and Statistics	Introductory Statistics	CMAT 1303
Spanish	Elementary Spanish I	CSPN 1013/1014
	Elementary Spanish II	CSPN 1023/1024
	Intermediate Spanish I	CSPN 2013/2014
	Intermediate Spanish II	CSPN 2023
Theatre (Performance)	Acting I or II	CTHE 2103/2113
	Introduction to Theatre	CTHE 1013
US Government or Civics	Introduction to American Government	CPOL 2013
	Introduction to State and Local Government	CPOL 2113
	Introduction to Comparative Government	CPOL 2213
US History	American History I or II	CHIS 2013/2023
Western Civilization	Western Civilization I or II	CHIS 1013/1023
World Geography	World Regional Geography	CGRG 2113
World History	World Civilization I or II	CHIS 1113/1123

(v). Honors Courses

TOPS Core Course	Honors
Arabic	Arabic: Cambridge AICE-AS
Biology II	Biology II: Honors
IB Biology II	Biology II: Cambridge AICE-AS

TOPS Core Course	Honors
Calculus I	Calculus: Honors Math 2 (Part 1): Cambridge AICE-A Level
Calculus II	Math 2 (Part 2): Cambridge AICE – A Level
Chemistry I	Chemistry I: Honors
Chemistry II	Chemistry II: Honors
IB Chemistry II	Chemistry II: Cambridge AICE-AS
Chinese	Chinese: Cambridge AICE-AS
Economics	Economics: Cambridge AICE - AS
English III	English III: Honors English Language Part 1: Cambridge AICE – AS
	Literature in English Part 1: Cambridge AICE - AS
English IV	English IV: Honors English Language Part 2: Cambridge AICE – AS
	Literature in English Part 2: Cambridge AICE - AS
Environmental Science	Environmental Science: Honors
European History	History European: Cambridge AICE-AS
French	French: Cambridge AICE-AS
German	German: Cambridge AICE-AS
Government	Government: Honors
Japanese	Japanese: Cambridge AICE-AS
Physics I	Physics: Honors
IB Physics II	Physics II: Cambridge AICE-AS
Pre-Calculus	Pre-Calculus Honors
	Math 1: (Pure Math): Cambridge AICE-AS
Probability and Statistics	Probability and Statistics: Honors Math 1 (Probability and Statistics)- Cambridge AICE
Spanish	Spanish: Cambridge AICE-AS
Spanish IV	Spanish Literature: Cambridge ACE
US History	U.S. History: Honors
World Geography	Geography: Cambridge AICE-AS
World History	World History: Honors
	History International: Cambridge AICE-AS

A.5.a.iii.(a). - J.4.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR



36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:651, 664 (April 2015), LR 41:1486 (August 2015), LR 41:2596, 2599 (December 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 42:1657 (October 2016), LR 42:1882 (November 2016), LR 43:518 (March 2017), LR 43:1346 (July 2017), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:506 (March 2018), LR 44:1004 (June 2018), LR 44:1870 (October 2018), LR 45:

#### **Family Impact Statement**

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

#### **Poverty Impact Statement**

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

#### **Small Business Analysis**

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

#### **Provider Impact Statement**

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

#### **Public Comments**

Interested persons may submit written comments on the proposed changes (SG20188NI) until 4:30 p.m., November 12, 2019, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively  
Senior Attorney

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Scholarship/Grant Programs TOPS Exceptions**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no anticipated costs or savings to state or local governmental units as a result of the proposed rule changes.

The proposed rule changes add certain coursework offered by the University of Cambridge (Cambridge Assessment International Education) to the list of course equivalencies used for the purpose of meeting high school Taylor Opportunity Program for Students (TOPS) core curriculum eligibility requirements and add Cambridge and other courses to the list of courses that qualify as Honors courses in the TOPS high school GPA calculation. In accordance with the requirements of R.S. 17:5062(C)(1), the proposed rule changes have been approved by BESE and the Board of Regents (BOR). These changes are not anticipated to have any material impact on TOPS eligibility or expenditures.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes will have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule changes will benefit high school students by providing additional course equivalency options to meet

TOPS core curriculum requirements. Currently there are no schools offering the proposed coursework. The University of Cambridge indicated enrollments are not expected until the 2020-2021 school year.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule changes will have no effect on competition and employment.

Robyn Rhea Lively  
Senior Attorney  
1909#023

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Office of the Governor Division of Administration Patient's Compensation Fund Oversight Board**

Rulemaking Petitions (LAC 37:III.Chapter 21)

The Louisiana Patient's Compensation Fund Oversight Board, under authority of the Louisiana Medical Malpractice Act, R.S. 40:1231.1, et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., specifically R.S. 49:953(C)(1), the Office of the Governor, Louisiana Patient's Compensation Fund Oversight Board, proposes to adopt the following rule outlining the process for considering rulemaking petitions.

#### **Title 37**

#### **INSURANCE**

#### **Part III. Patient's Compensation Fund Oversight Board Chapter 21. Rulemaking Petitions**

#### **§2101. Submission of a Rulemaking Petition**

A. In accordance with R.S. 49:953(C)(1), any interested person may petition an agency to adopt a new rule, or to amend or repeal an existing rule.

B. To petition the board for changes to the board's current rules, or for the adoption of new rules within the board's purview, an interested person shall submit a written petition to the board. The petition shall include:

1. the petitioner's name and address;
2. the name of the promulgating agency for the rule in question;
3. specific text or a description of the proposed language desired for the adoption or amendment of a rule, or the specific rule and language identified for repeal;
4. justification for the proposed action; and
5. the petitioner's signature.

C. The rulemaking petition shall be submitted by certified mail and addressed to

Louisiana Patient's Compensation Fund Oversight Board  
Attn: Mr. Kenneth H. Schnauder, Executive Director  
Iberville Building, 627 North Fourth Street, Suite 2-300  
Baton Rouge, LA 70802-5343

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.4(D)(3) and R.S. 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board, LR 45:

#### **§2103. Consideration of a Rulemaking Petition**

A. Upon receipt, a rulemaking petition shall be forwarded to the board for review.

B. Within 90 days of receipt of the rulemaking petition, the board shall either:

1. initiate rulemaking procedures to adopt a new rule, or to amend or repeal an existing rule; or

2. notify the petitioner in writing of the denial to proceed with rulemaking, stating the reason(s) therefor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.4(D)(3) and R.S. 953, et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board, LR 45:

#### **Family Impact Statement**

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

This Rule has no known impact on child, individual, or family poverty as described in R.S. 49:973.

#### **Small Business Analysis**

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

#### **Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

#### **Public Comments**

All interested persons are invited to submit written comments via the U.S. Mail to Kenneth H. Schnauder, Executive Director, Louisiana Patient's Compensation Fund Oversight Board, Iberville Building, 627 North Fourth Street, Suite 2-300, Baton Rouge, LA 70802-5343 and/or to David A. Woolridge, Jr., General Counsel, Louisiana Patient's Compensation Fund Oversight Board, 8440 Jefferson Highway, Suite 301, Baton Rouge, LA 70809-7654. All written public comments are required to be signed by the person submitting the comments, dated, and received on or before November 20, 2019 by 4:30 p.m.

Kenneth H. Schnauder  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Rulemaking Petitions**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no expected implementation costs or savings to the state or local governmental units as a result of this proposed rule because the proposed rule simply codifies the current practices of the Louisiana Patient's Compensation Fund Oversight Board within the Office of the Governor for submission and consideration of rulemaking petitions.

This action is in accordance with the provisions of Act 454 of the 2018 Regular Session, amending and reenacting R.S. 49:953(C). R.S. 49:953(C)(1) sets forth that "Each agency shall prescribe by rule the form for petitions and the procedure for their submission, considerations, and disposition. Within ninety days after submission of a petition, the agency shall either deny the petition in writing, stating reasons for the denial, or shall initiate rulemaking proceedings in accordance with this Chapter."

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule is not expected to create costs or economic benefits for directly affected persons or nongovernmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule is not expected to affect competition or employment.

Kenneth H. Schnauder  
Executive Director  
1610#049

Greg V. Albrecht  
Chief Economist  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Office of the Governor Division of Administration Racing Commission**

#### **Permitted Medications in Quarter Horses (LAC 35:I.1506)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, notice is hereby given that the Racing Commission proposes to amend LAC 35:I.1506 by notice of intent. The proposed amendment adds an additional penalty specifically relating to the race horse who receives a positive test for the prohibited medication Clenbuterol in a quarter horse.

### **Title 35 HORSE RACING**

#### **Part I. General Provisions**

#### **Chapter 15. Permitted Medication**

#### **§1506. Permitted Medications in Quarter Horses**

A. Any racehorse participating in a quarter horse race shall comply with the medication rules set forth herein, specifically LAC 35:I.Chapter 15 and LAC 35:I.Chapter 17, however the following exception(s) shall apply:

1. Clenbuterol is a prohibited substance in quarter horses and other breeds racing with quarter horses. There is no applicable withdrawal guideline for such horses.

B. Any quarter horse reported positive for Clenbuterol by the Louisiana State University's Equine Medication Surveillance Laboratory and following a written ruling by the Stewards shall be placed on the Stewards List and is not eligible to be entered in a race for a period of 60 days from the race date of the positive.

C. Penalties assessed pursuant to Subsection B are in addition to any set forth in LAC 35:I.1797.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 45:247 (February 2019), amended LR 45:

#### **Family Impact Statement**

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

### Poverty Impact Statement

This proposed Rule has no known impact on poverty as described in R.S. 49:973.

### Small Business Analysis

This proposed Rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

### Provider Impact Statement

This proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

### Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m. Monday - Friday, and interested parties may submit oral or written comments, data, views, or arguments relative to this proposed rule for a period up to 20 days (exclusive of weekends and state holidays) from the date of this publication to Rhea Loney, Assistant Attorney General, 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5100.

Charles A. Gardiner III  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Permitted Medications in Quarter Horses

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated direct material effect on state or local governmental units as a result of the proposed administrative rule change.

The proposed amendment to the rule adds an additional penalty to a Clenbuterol positive in a quarter horse. Specifically, upon a report by the Louisiana State University's Equine Medication Surveillance Laboratory of a positive for Clenbuterol in a quarter horse and following a written ruling by the Stewards, the horse shall be placed on the Stewards' List and is not eligible to be entered in a race for a period of 60 days from the race date of the positive.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed administrative rule.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Trainers, veterinarians, and owners will be impacted by the proposed administrative rule in that it increases the penalties associated with the prohibited medication Clenbuterol when a quarter horse is found to be positive following a horse race. The horse will be placed on a Stewards' List and will be ineligible to race for a period of 60 days from the date of the positive. This may have an economic impact to directly affected persons.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment as a result of the proposed administrative rule change.

Charles A. Gardiner III  
Executive Director  
1910#002

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health Behavior Analyst Board

Supervision Requirements  
(LAC 46:VIII.503 and 511)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq, the Behavior Analyst Board intends to amend §503 A., §503 B., and B.2, §511.A, A.1, A.2, A.3, A.4, A.5, and §511.B.

Amendments are necessary to clarify face-to-face contact, real time 1:1 contact, on-site contact, and the use of electronics in supervision.

### Title 46

## PROFESSIONAL AND OCCUPATIONAL STANDARDS

### Part VIII. Behavior Analysts

#### Chapter 5. Supervision Requirements

#### Subchapter A. Supervision Requirements for State Certified Assistant Behavior Analysts (SCABA)

#### §503. Supervision Requirements

A. The manner of supervision shall depend on the treatment setting, patient/client caseload, and the competency of the SCABA. At a minimum, for full-time SCABAS, working at least 30 hours per week, a face-to-face supervisory meeting shall occur not less than once every four weeks, with each supervisory session lasting no less than one hour for full-time SCABAS. In-person, on-site observation is preferred. However, this face-to-face supervision may be conducted via web cameras, videoconferencing, or similar means in lieu of the supervisor being physically present in the same geographic space as the technician, provided the remote methods comply with all relevant privacy protection laws and regulations. Face-to-face supervision conducted remotely requires two-way video and audio capability, real-time 1:1 contact must occur while the client's session is occurring; and on-site requires the SCABA to be on-site with the client. The qualifying supervision activities may include:

A.1 - A.2. ...

B. More frequent supervisory activities may be necessary as determined by the LBA or SCABA dependent on the level of expertise displayed by the SCABA, the practice setting, and/or the complexity of the patient/client caseload. Supervision should occur in a schedule and mode consistent with evidence-based practice and sufficient to ensure competence in the delivery of each client's current treatment program. The qualifying supervision may include, but are not limited to:

B.1. ...

2. camera surveillance of sessions in which a supervisor only views the sessions remotely and communication occurs via text-messages, electronic mail, or other written or typed communication is allowed as additional supervision, but is a non-qualifying supervision activity.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analysts Board, LR 40:1933 (October 2014), amended by the Department of Health, Behavior Analyst Board, LR 42:1516 (September 2016), amended by the Department of Health, Behavior Analyst Board, LR 45:

**Subchapter B. Supervision Requirements for Registered Line Technicians (RLT)**

**§511. Supervision Requirements**

A. The manner of supervision shall depend on the treatment setting, client caseload, and the competency of the RLT. It must be noted these are the minimum requirements and every LBA is still responsible for assuring supervision is provided at a frequency and mode that sufficiently addresses the needs of each individual client. The qualifying supervision must include the following criteria:

1. Each RLT must be supervised for a minimum of 5 percent of the hours spent providing applied behavior-analytical services per month.

2. Supervision must include at least two face-to-face contacts per month. At least one of the face-to-face contacts requires the supervisor observe the RLT providing services. In-person, on-site observation is preferred; however, via web cameras, videoconferencing, or similar means in lieu of the supervisor being physically present in the same geographic space as the technician, provided the remote methods comply with all relevant privacy protection laws and regulations is allowed. Face-to-face supervision conducted remotely requires two-way video and audio capability.

3. It must be noted these are minimum requirements and all Licensed Behavior Analysts are still responsible for assuring supervision is provided at a frequency and mode to sufficiently address the needs of each individual client.

4. The LBA may delegate supervisory responsibilities to a SCABA under their direct supervision or another LBA. The LBA of record is ultimately responsible for all supervision requirements.

5. Other supervisory activities may include real-time interactions between a supervising LBA or SCABA and a group of RLTs to review and discuss assessment and treatment plans and procedures, client assessment and progress data and reports, published research, ethical and professional standards and guidelines, professional development needs and opportunities, and relevant laws, regulations and policies.

B. More frequent supervisory activities may be necessary as determined by the LBA, SCABA, or RLT, dependent on the level of expertise displayed by the RLT, the practice setting, and/or the complexity of the client caseload. Supervision should occur at a schedule consistent with evidence-based practice and sufficient to ensure competency in the delivery of each of the client's current treatment programs. These additional supervisory activities; however, do not qualify towards minimum supervision requirements. Examples of additional non-qualifying supervision includes camera surveillance of sessions in which a supervisor only views the sessions remotely and communication occurs via text-messages, electronic mail, or other written or typed communication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analysts Board, LR 40:1933 (October 2014), amended by the Department of Health, Behavior

Analyst Board, LR 42:1516 (September 2016), amended by the Department of Health, Behavior Analyst Board, LR 45:

**Family Impact Statement**

The Behavior Analyst Board hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule and adoption of the rule related to supervision is being implemented to guarantee the licensing authority can safeguard the public welfare of this state and will have no known foreseeable impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; family earnings and family budget; behavior and personality responsibility of children; or the ability of the family or a local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

The proposed Rule amends LAC 46:VIII. Chapter 5. The Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Provider Impact Statement**

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Specifically, there is no known or foreseeable effect on: the staffing level requirements or qualifications required to provide the same level of service; the total direct or indirect cost to the providers to provide the same level of service; or the overall ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments to Rhonda Boe, Executive Director, 4334 S. Sherwood Forest Blvd., Suite C-150, Baton Rouge, LA 70816. All comments must be submitted by 12 p.m. on November 9, 2019.

Rhonda Boe  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Supervision Requirements**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will result in a one-time cost of approximately \$450 in FY 20 for the LA Behavior Analyst Board (LBAB) to publish the proposed amendment and final rule in the *Louisiana Register*. This cost will be funded utilizing existing SGR collections for the LBAB. The proposed rule change clarifies qualifying supervision requirements, including electronic means, for state-certified assistant behavior analysts (SCABAs) and registered line technicians (RLTs).

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will not affect revenue collections for state or local governmental units.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change to the supervision requirements for SCABAs and RLTs clarify what may constitute face-to-face contact, real time 1:1 contact, on-site contact, and what constitutes qualifying supervisory activities utilizing electronic means. Furthermore, the proposed rule changes allow RLTs to receive their mandatory 5 percent of supervised practice hours each month to occur electronically. These supervisory changes may benefit SCABAs and RLTs by allowing them to practice in certain areas without a supervising licensed behavior analyst being physically present, but available to oversee and supervise services via electronic means, which may allow for increased clients. Furthermore, the proposed rule changes may benefit clients in rural areas by providing new or additional access to behavior analysis services.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed changes to the supervision requirements may increase competition and employment in rural areas. This is based on the clarification of electronic supervision guidelines, which allow behavior analysis providers to offer services to rural areas in a cost-effective way to both provider and client.

Rhonda Boe  
Executive Director  
1910#046

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health Board of Optometry Examiners

Optometry (LAC 46:LI.301, 303, 501, 503, 505, and 611)

Notice is hereby given, in accordance with the Administrative Procedures Act, R.S. 49:950 et seq., that the Louisiana State Board of Optometry Examiners, pursuant to authority vested in the Louisiana State Board of Optometry Examiners by the Optometry Practice Act, R.S. 37:1041-1068, intends to amend Title 46, Part LI by adopting the following proposed amendments to the rules set forth below.

A preamble which explains the basis and rationale for the intended action, and summarizing the information and data supporting the intended action has not been prepared. A description of the subjects and issues involved is as follows:

Revised §301 makes it clear that “a minimum of 9 of 12 hours must be obtained in a classroom setting in the calendar year in which an optometrist holding a controlled dangerous substance license satisfies the one-time continuing education requirement for controlled dangerous substances set forth in §303.”

Revised §301 also makes it clear that “a minimum of 13 of 16 hours must be obtained in a classroom setting in the calendar year in which an optometrist holding a controlled dangerous substance license satisfies the one-time continuing education requirement for controlled dangerous substances set forth in §303.”

New §303 makes it mandatory for any optometrist whose scope of practice is to dispense or administer controlled dangerous substances, as a condition prerequisite to licensure renewal, to successfully complete three credit hours of continuing education approved the board on

controlled dangerous substances prescribing practices. The Section further provides that these credits may be obtained by an online course approved by the board. This Section is being promulgated in response to Act. No. 76, Senate Bill No. 55 of the Louisiana Legislature requiring “licensing boards that regulates practitioners with prescriptive authority in Louisiana” to “establish continuing education requirements [for controlled dangerous substances] as a prerequisite to license renewal.”

Revised Subsection 501.A makes it a violation for optometrists for failing to report adverse actions to the board within 30 days of the action.

Revised Subsection 503.I clarifies procedures for retiring a license and adds new procedures for reinstating a retired license.

New §505 adds certain requirements for valid spectacle and contact lens prescriptions. In order to be valid, a spectacle prescription must (1) contain in a legible form the name, address, telephone number and license number of the provider; (2) the name of the patient, the prescription date, refractive power and may contain information specifying the physical design; and (3) the expiration date and signature of the provider issuing the prescription. In order for a contact lens prescription to be valid it must (1) contain the name, address, telephone number and license number of the provider; and (2) the name of the patient, prescription date, brand or material, curvature and lens diameter, refractive power, and the number of lenses/boxes to be dispensed.

This Section further provides that contact lenses may not be sold or dispensed without a signed, unexpired prescription and goes on to list similar requirements for contact lens prescriptions as it does for spectacle prescriptions. This Section also provides that prescriptions for spectacles may not exceed 18 months and the prescriptions for contact lenses may not exceed 12 months (unless provider documents valid medical reason in chart for doing so) and no entity or person may fill a contact lens or spectacle prescription after the expiration date of the prescription.

This Section also provides that neither spectacle nor contact lens prescriptions may be substituted for one another and an optometrist, when filling the prescription, must keep the original prescription, copy or electronic facsimile of the original prescription and must release the prescription to the patient, if requested by the patient, unless the prescription has expired.

New §611 provides for mandatory access and review of the Prescription Monitoring Program (PMP). Prior to initially prescribing any opioid to a patient, a prescriber shall access and review the patient’s record in the PMP and if opioids are prescribed to the patient for more than 90 days the prescriber shall access and review the record in the PMP at least every 90 days. There are several exceptions to this requirement, consisting of the following: (1) the drug is prescribed to a hospice patient or any other patient who has been diagnosed as terminally ill; (2) the drug is prescribed for the treatment of cancer related chronic or intractable pain; (3) the drug is ordered or administered to a patient being treated in a hospital; (4) the PMP is not accessible or not functioning properly due to an electronic issue; or (5) no more than a single 7-day supply of the drug is prescribed or administered to a patient. Any optometrist who fails to

follow this Section shall be deemed to constitute just cause for the suspension, revocation, refusal to issue or the imposition of probationary or other restrictions on any license or permit to practice optometry in Louisiana. This Section is being promulgated in response to Act. No. 76, Senate Bill No. 55 of the Louisiana Legislature.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LI. Optometrists**

#### **Chapter 3. License**

##### **§301. Continuing Education**

A. Each licensed optometrist shall comply with the following continuing education requirements.

1. Standard optometry license holders and diagnostic pharmaceutical certificate holders shall complete between January 1 and December 31 of each calendar year at least 12 hours of continuing education courses, of which a minimum of 10 hours must be obtained in a classroom setting, approved by the Louisiana State Board of Optometry Examiners; provided, however, a minimum of 9 of 12 hours must be obtained in a classroom setting in the calendar year in which an optometrist holding a controlled dangerous substance license satisfies the one-time continuing education requirement for controlled dangerous substances set forth in §303.

2. License holders authorized to diagnose and treat pathology and use and prescribe therapeutic pharmaceutical agents shall complete between January 1 and December 31 of each calendar year at least 16 hours of continuing education courses, of which a minimum of 14 hours must be obtained in a classroom setting, approved by the Louisiana State Board of Optometry Examiners, and of which at least eight classroom hours shall consist of matters related to ocular and systemic pharmacology and current diagnosis and treatment of ocular disease; provided, however, a minimum of 13 of 16 hours must be obtained in a classroom setting in the calendar year in which an optometrist holding a controlled dangerous substance license satisfies the one-time continuing education requirement for controlled dangerous substances set forth in §303. Such certificate holders will be entitled to apply the CPR continuing education to their required annual continuing education, provided that such CPR continuing education shall not count toward the required eight classroom hours related to ocular and system pharmacology and current diagnosis and treatment of ocular disease, and provided further that no more than two hours of CPR continuing education may be applied to the continuing education requirement in any two calendar year periods. The eight hours of continuing education relating to ocular and systemic pharmacology and/or current diagnosis and treatment of ocular disease shall be obtained solely from the following sources:

- a. the American Optometric Association;
- b. any state optometric association affiliated with the American Optometric Association;
- c. Great Western Council of Optometry, Mountain West Council of Optometrists, North Central States Optometric Council, and Southern Council of Optometrists;
- d. the American Academy of Optometry; or

e. schools and colleges of optometry accredited by the American Optometric Association Accreditation Council on Optometric Education.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1048.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:630 (April 2006), amended LR 35:1111 (June 2009), amended by the Department of Health, Board of Optometry Examiners, LR 45:

##### **§303. Continuing Education Requirement for Controlled Dangerous Substances**

A. Scope of Rule. This rule provides for the one-time continuing education (CE) requirement for controlled dangerous substances prerequisite to license renewal of an authorized prescriber, definitions and the procedures applicable to approved/qualifying CE, credit for satisfaction, documentation, non-compliance, an exception and conflict resolution with other CE rules of this Part.

B. Definitions. As used in this §303, the following terms and phrases shall have the meanings specified.

*Authorized Prescriber*—an optometrist whose scope of practice includes authority to prescribe, dispense, or administer CDS.

*Board*—the Louisiana State Board of Optometry Examiners, as constituted under R.S. 37:1041 et seq.

*Controlled Dangerous Substances or CDS*—any substance defined, enumerated or included in federal or state statute or regulations 21 CFR. §§1308.11-.15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations and statute.

##### **C. Continuing Education Requirements**

1. Notwithstanding any other provision, including, but not limited to, §301.A.1 pertaining to the requirement for obtaining a minimum of 10 hours of continuing education credit in a classroom setting, every authorized prescriber seeking the renewal of a license on and after January 1, 2019, shall, as part of the continuing education requirement by this part, and as a condition prerequisite to licensure renewal, successfully complete three credit hours of continuing education approved by the board on CDS prescribing practices, all of which may be taken through online courses approved by the board. Such continuing education shall include instruction relating to drug diversion training, best practices regarding prescribing of CDS, appropriate treatment for addiction and any other matters regarding the prescribing of CDS that are deemed appropriate by the board. The continuing education requirement may be satisfied by completing a continuing education program consisting of at least three credit hours approved by the board. Successful completion of this requirement once shall satisfy the requirement in full.

2. An optometrist with prescription authority in Louisiana for CDS shall be exempt from the continuing education requirement for renewal of his/her license to practice optometry if he/she completes and submits to the board a certification developed by the board attesting that he has not prescribed, administered or dispensed a CDS during the previous calendar year. The board shall verify the attestation of the prescriber through the prescription

monitoring program. The exemption from the continuing education requirement of this subsection shall only be valid for the calendar year to which the attestation applies. If an optometrist obtains an exemption from continuing education requirements under this subsection, the optometrist with a renewed optometry license may prescribe, administer or dispense a CDS during a subsequent renewed optometry license term, but shall not be exempt from continuing education requirements for renewal of a optometry license during such period and, as such, shall obtain three hours of continuing education approved by the board on CDS prescribing practices prior to the expiration of such renewed optometry license term as provided in Paragraph 1 above.

3. Information on how to access approved, qualifying continuing education courses will be maintained by the board and made available on its website [www.laoptometryboard.com](http://www.laoptometryboard.com). No license shall be renewed for an individual who fails to comply with the provisions of this Section.

4. The continuing education hours required by this section shall be considered among the credit hours required of the prescriber by the board on and after August 1, 2017, and shall not be considered an additional requirement to be met by a prescriber.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:630 (April 2006), amended LR 35:1111 (June 2009), amended by the Department of Health, Board of Optometry Examiners, LR 45:

## **Chapter 5. Practicing Optometry**

### **§501. Professional Conduct**

A. The following acts or omissions constitute a failure by the optometrist to abide by the minimal standards of acceptable and prevailing optometry practice, as set forth in R.S. 37:1061(10).

1. - 6. ...

7. Failing to report to the board:

a. any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court; or

b. any other act, event, or occurrence required to be reported pursuant to Louisiana Revised Statute §37:1061, or that would constitute grounds for disciplinary action pursuant to this Section, which report shall be in writing and within 30 days of such adverse action, act, event or occurrence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:630 (April 2006), amended LR 35:1111 (June 2009), amended by the Department of Health, Board of Optometry Examiners, LR 45:

### **§503. License to Practice Optometry**

A. - G. 6. ...

H. Participation in Student Extern Program. An optometrist may participate in student extern programs in accordance with rules and regulations promulgated from time to time by the board.

1. The level of responsibility assigned to a student extern shall be at the discretion of the supervising optometrist who shall be ultimately responsible for the duties, actions or work performed by such student extern.

2. The duties, actions and work performed by a student extern in accordance with the provisions of this §603 and §603 shall not be considered the practice of optometry without a license as set forth in R.S. 37:1061(14).

## **I. Retirement of License**

1. Upon request by a duly licensed Optometrist whose license is in good standing, the board by rule may provide for a license holder's license to be retired. The request to have a license retired must be in writing and delivered to the board. The request for a retired license will be placed on the board agenda for consideration at the next scheduled board meeting and the effective date of retirement determined by the board will be set and may be retroactive. A person who holds a retired license may not practice optometry in any manner in Louisiana until such time the license is reactivated and current. A person holding a retired license is exempt from the continuing education requirements of §301. A violation of this section has the same effect as, and is subject to the penalties for, practicing optometry without holding a license. The holder of a retired license need not renew the retired license annually nor pay any renewal fees.

2. Re-Activation of Retired License. For an retired license to be re-activated, the license holder must pay the reinstatement fee set forth in §801.A.6 plus any and all license renewal fee(s) and comply with all continuing education requirements. To re-activate a retired license the license holder must show 16 hours of board approved continuing education for each year of retired license status. The required continuing education may be obtained at any time during the retired status period. If the inactive license holder fails to practice optometry in any state for greater than five consecutive years from the date the license was granted retired status, an examination acceptable to the board may be required to re-activate the original license. For holders of a retired license with authorized ophthalmic surgery procedures, if the retired license holder fails to practice authorized ophthalmic surgery procedures in any state for greater than five consecutive years from the date the license was granted retired status, a recertification of advanced procedure proficiency and examination acceptable to the board may be required to re-activate the original license.

## **J. Inactive Status**

1. Upon request by a duly licensed Optometrist whose license is in good standing, the board by rule may provide for a license holder's license to be placed on inactive status. The request to have a license be considered inactive must be in writing and delivered to the board. The request for inactive status will be placed on the board agenda for consideration at the next scheduled board meeting and the effective date of inactive status determined by the board will be set and may be retroactive. A person who holds an inactive license may not practice optometry in any manner in Louisiana until such time the license is reactivated and current. A person holding an inactive license is exempt from the continuing education requirements of Section 301. A violation of this section has the same effect as, and is subject to the penalties for, practicing optometry without holding a license. The holder of an inactive license must renew the inactive license annually and pay appropriate renewals fees to avoid revocation.

2. **Re-Activation of Inactive License.** For an inactive license to be re-activated, the license holder must pay the reinstatement fee set forth in §801.A.6 plus any and all license renewal fee(s) and comply with all continuing education requirements. To re-activate an inactive license the license holder must show 16 hours of board approved continuing education for each year of inactive license status. The required continuing education may be obtained at any time during the inactive status period. If the inactive license holder fails to practice optometry in any state for greater than five consecutive years from the date the license was granted inactive status, an examination acceptable to the board may be required to re-activate the original license. For holders of an inactive license with authorized ophthalmic surgery procedures, if the inactive license holder fails to practice authorized ophthalmic surgery procedures in any state for greater than five consecutive years from the date the license was granted inactive status, a recertification of advanced procedure proficiency and examination acceptable to the board may be required to re-activate the original license.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1048.

**HISTORICAL NOTE:** Promulgated by the Department of Health, Board of Optometry Examiners, LR 45:

#### **§505. Prescriptions for Eyeglasses or Contact Lenses**

A. To constitute a valid spectacle prescription, every spectacle prescription for use in correcting errors of refraction and restoring, as near as possible, normal human vision shall contain in a legible form the name, address, telephone number and license number of the provider, the name of the patient, the prescription date, refractive power (including spherical power, cylindrical power, axis, prism, and multifocal addition power, as applicable), and may contain information specifying the physical design (i.e. base curve, material type, and other pertinent measurements such as pupillary distance). Every spectacle prescription shall contain an expiration date and the signature of the provider issuing the prescription. The expiration date may not exceed 18 months, unless the provider documents a valid medical reason in the chart for doing so.

B. Contact lenses may not be sold or dispensed without a signed, unexpired prescription. Every contact lens prescription shall contain, in a legible form, the name, address, telephone number and license number of the provider, the name of the patient, the prescription date, brand or material, curvature and lens diameter (if more than one base curve and diameter is available), refractive power (including spherical power, cylindrical power, axis, and multifocal addition power, as applicable), the number of lenses/boxes to be dispensed. An optometrist, when issuing a prescription for contact lenses, shall also include the number of refills allowed and the expiration date of the prescription. The expiration date may not exceed 12 months, unless the provider documents a valid medical reason in the chart for doing so.

C. An optometrist, when filling a prescription for eyeglasses or contact lenses, shall be required to keep the original prescription, copy, or electronic facsimile of the original prescription. An optometrist may not refuse to

release to a patient a copy of the patient's prescription if requested by the patient; provided, however, an optometrist shall not be required to release a prescription that has expired.

D. A spectacle prescription shall not be construed to be or substituted for a contact lens prescription nor shall a contact lens prescription be construed to be or substituted for a spectacle prescription.

E. No owner, employer, or agent of any business establishment that buys, sells, offers to sell, dispenses, or gives away prescription or non-prescription contact lenses, or prescription spectacle lenses may fill a contact lens or spectacle prescription after the expiration date, or if the information specified in Subsections A and B of this Section is not included on the prescription.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:1048.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:630 (April 2006), amended LR 35:1111 (June 2009), amended by the Department of Health, Board of Optometry Examiners, LR 45:

### **Chapter 6. Dispensation of Medication**

#### **§611. Mandatory Access and Review of Prescription Monitoring Program Data; Exceptions**

A. Scope of Rule. The rules for this §611 provide for prescriber mandatory access and review of the Louisiana Prescription Monitoring Program, R.S. 40:100 et seq., as from time to time may be amended (PMP), and for exceptions and non-compliance.

B. As used in this §611, the following terms and phrases shall have the meanings specified.

*Administer*—with respect to a medication provided or dispensed by a prescriber for use by a patient, the term *administer* means directly or through an agent to give, provide or supply for immediate oral ingestion, insertion or topical application by the patient, or to insert, apply topically, or inject intravenously, intramuscularly, subcutaneously, intrathecally, or extrathecally.

*Board*—the Louisiana State Board of Optometry Examiners, as constituted under R.S. 37:1041 et seq.

*Controlled Dangerous Substance (CDS)*—any substance defined, enumerated or included in federal or state statute or regulations 21 CFR §§1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations and statute.

*Delegate*—an individual authorized by a prescriber or dispenser who is also authorized to access and retrieve prescription monitoring program data for the purpose of assisting the prescriber or dispenser, and for whose actions the authorizing prescriber or dispenser retains accountability.

*Prescribe*—to issue a request or order for a drug or medical device by an individual licensed under this Part for a legitimate medical purpose. The act of prescribing must be in good faith and in the usual course of the licensee's professional practice.

*Prescriber*—an optometrist or other health care provider as may hereafter be licensed by the board under this Part, whose scope of practice includes authority to prescribe opioids.

*Prescription*—an order from a practitioner authorized by law to prescribe for a drug or device that is patient



specific and is communicated by any means to a pharmacist in a permitted pharmacy.

*Prescription Monitoring Program* or *PMP*—the electronic system for the monitoring of controlled substances and other drugs of concern established by the Prescription Monitoring Program Act, R.S. 40:1001 et seq., as may from time to time be amended.

#### C. Mandatory Access and Review

1. Prior to initially prescribing any opioid to a patient, a prescriber or his/her delegate shall access and review the patient's record in the PMP; and

2. If opioids are prescribed to the patient for more than 90 days, the prescriber or his/her delegate shall access and review the record in the PMP at least every 90 days.

3. This Section shall not apply if:

a. the drug is prescribed or administered to a hospice patient or any other patient who has been diagnosed as terminally ill;

b. the drug is prescribed or administered for the treatment of cancer-related chronic or intractable pain;

c. the drug is ordered or administered to a patient being treated in a hospital;

d. the PMP is not accessible or not functioning properly due to an electronic issue. However, the prescriber shall check the PMP after electronic accessibility has been restored and note the cause for the delay in the patient's chart; or

e. no more than a single seven-day supply of the drug is prescribed or administered to a patient.

D. Action against Optometry License. Violation or failure to comply with the provisions set forth in §§303 or 611, or providing false or misleading statements in connection with any application required by this Chapter may be deemed to constitute just cause for the suspension, revocation, refusal to issue, or the imposition of probationary or other restrictions on any license or permit to practice optometry in the state of Louisiana or applied for by an optometrist culpable of such violation, or for other administrative action as the board may in its discretion determine to be necessary or appropriate, under the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:630 (April 2006), amended LR 35:1111 (June 2009), LR 45:

#### Family Impact Statement

It is anticipated that the proposed Rule amendments will have no significant effect on the: stability of the family, authority and rights of parents regarding the education and supervision of their children, functioning of the family, family earnings and family budget, behavior and personal responsibility of children, ability of the family or a local government to perform the function as contained in the proposed Rule.

#### Poverty Impact Statement

It is anticipated that the proposed Rule amendments will have no significant impact on poverty as described in R.S. 49:973.

#### Small Business Analysis

It is anticipated that the proposed Rule amendments have no significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

#### Provider Impact Statement

It is anticipated that the proposed Rule amendments have no significant provider impact as described in HCR 170 of 2014.

#### Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed Rule until 5 p.m., November 20, 2019, to Dr. James D. Sandefur, O.D., Louisiana State Board of Optometry Examiners, P.O. Box 555, 419 Hwy. 165 N., Oakdale, LA 71463. He is responsible for responding to inquiries regarding the proposed Rule.

Dr. James Sandefur

Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Optometry

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in any material costs or savings for state or local governments other than a marginal, one-time publication expense \$600 for the LA State Board of Optometry Examiners. The proposed rule changes increase fees in the aggregate for optometry examiners due to certain required continuing education courses.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not have any effect on revenues for the LA State Board of Optometry Examiners.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The addition of a one-time continuing education requirement for controlled dangerous substances represents a direct cost to optometry examiners in Louisiana as the cost for registering for these continuing education courses ranges from \$12.00 to \$250.00. However, this will not result in an increased cost for licensed optometrists since the one time requirement for continuing education in prescribing controlled dangerous substances shall be considered among the credit hours required of the prescriber by the board and shall not be considered an additional requirement.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

J. Graves Theus, Jr.  
Board Attorney  
1909#010

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health Bureau of Health Services Financing

Intermediate Care Facilities for Persons with  
Intellectual Disabilities  
Dedicated Program Funding Pool Payments  
(LAC 50:VII.32917)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:VII.32917 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 50 of the 2019 Regular Session of the Louisiana Legislature appropriated funds to the Department of Health for supplemental payments to non-state providers for rate restorations for home and community-based services and enhancing reimbursements for adult day health services and intermediate care facilities for individuals with intellectual disabilities (ICFs/IID). The department elected to carry forward funds for use in State Fiscal Year 2020 to comply with the legislation's directive to allocate the funding in a manner that maximizes the payments to providers to the greatest extent possible.

In compliance with the requirements of Act 50, the department hereby proposes to adopt provisions governing reimbursement to non-state ICFs/IID to allow one-time, lump sum payments from the dedicated program funding pool.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

##### Part VII. Long Term Care

##### Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

##### Chapter 329. Reimbursement Methodology

##### Subchapter A. Non-State Facilities

##### §32917. Dedicated Program Funding Pool Payments

A. Effective for providers active and Medicaid certified as of September 1, 2019; a one-time lump sum payment will be made to intermediate care facilities for individuals with intellectual disabilities (ICFs/IID).

##### B. Methodology

1. Payment will be based on each provider's specific pro-rated share of an additional dedicated program funding pool totaling \$4,665,635.

2. The pro-rated share for each provider will be determined utilizing the provider's percentage of total annualized program Medicaid days. Annualized program Medicaid days will be calculated utilizing the most recently desk reviewed or audited cost reports as of July 1, 2019.

3. The additional dedicated program funding pool lump sum payments shall not exceed the Medicare upper payment limit in the aggregate for the provider class.

4. The one-time payment will be made on or before June 30, 2020.

5. Payment of the one-time lump sum payment is subject to approval by the U.S. Department of Health and Human Services, Centers for Medicaid and Medicare Services (CMS).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 46:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

#### Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### Small Business Statement

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

#### Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170, since this proposed Rule permits one-time, lump sum supplemental payments to non-state ICF/IID providers.

#### Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2019.

#### Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on November 12, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on November 27, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after November 12, 2019. If

a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Intermediate Care Facilities for Persons with Intellectual Disabilities Dedicated Program Funding Pool Payments**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will result in estimated state general fund programmatic cost of approximately \$1,567,887 for FY 19-20 but will not result in costs for FY 20-21 and 21-22 as these one-time, lump sum payments will be made from funds appropriated during the 2019 Legislative Session that the department elected to carry forward for use in FY 19-20. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 19-20 for the state's administrative expense for promulgation of this proposed rule and the final rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$3,098,126 for FY 19-20, but will not result in increases for FY 20-21 and FY 21-22. It is anticipated that \$324 will be collected in FY 19-20 for the federal share of the expense for promulgation of this proposed rule and the final rule.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule adopts provisions governing reimbursement to non-state intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) to allow one-time, lump sum payments from the dedicated program funding pool in compliance with Act 50 of the 2019 Regular Session of the Louisiana Legislature. Qualifying ICFs/IID will benefit from implementation of this proposed rule since it enables the facilities receiving enhanced reimbursement via these one-time, lump sum payments to continue to provide necessary services to Medicaid recipients. It is anticipated that implementation of this proposed Rule will increase Medicaid programmatic expenditures by approximately \$4,665,365 for FY 19-20.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This rule has no known effect on competition and employment.

Jen Steele  
Medicaid Director  
1910#070

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Department of Health Bureau of Health Services Financing**

Intermediate Care Facilities for Persons with Intellectual  
Disabilities—Reimbursement Methodology  
Direct Care Floor (LAC 50:VII.32901)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:VII.32901 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing reimbursement for intermediate care facilities for persons with intellectual disabilities in order to correct an invalid citation in the direct care floor language and ensure that these provisions are appropriately promulgated in the *Louisiana Administrative Code*.

#### **Title 50**

#### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part VII. Long Term Care**

#### **Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities**

#### **Chapter 329. Reimbursement Methodology**

#### **Subchapter A. Non-State Facilities**

#### **§32901. Cost Reports**

A. - B.2. ...

C. Direct Care Floor

1. A facility wide direct care floor may be enforced upon deficiencies related to direct care staffing requirements cited during the HSS annual review or resulting from an HSS complaint investigation.

2. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1592 (July 2005), repromulgated LR 31:2252 (September 2005), amended LR 33:461 (March 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1446 (August 2018), LR 46:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this

proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Statement**

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2019.

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on November 12, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on November 27, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after November 12, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Intermediate Care Facilities for Persons with Intellectual Disabilities Reimbursement Methodology—Direct Care Floor**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed Rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 19-20. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 19-20 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 19-20. It is anticipated that \$270 will be collected in FY 19-20 for the federal share of the expense for promulgation of this proposed Rule and the final Rule.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule amends the provisions governing reimbursement for intermediate care facilities for persons with intellectual disabilities (ICFs/IID) in order to correct an invalid citation in the direct care floor language and ensure that these provisions are appropriately promulgated in the Louisiana Administrative Code (LAC). This is a technical change only to remove an obsolete LAC reference in the ICF/IID administrative Rule. It is anticipated that implementation of this proposed Rule will not result in costs to ICFs/IID in FY 19-20, FY 20-21 and FY 21-22, but will be beneficial to providers by providing clear and accurate reimbursement requirements.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This Rule has no known effect on competition and employment.

Jen Steele  
Medicaid Director  
1910#071

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Health Bureau of Health Services Financing**

Medicaid Eligibility  
Modified Adjusted Gross Income Groups  
(LAC 50:III.10307)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:III.10307 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Affordable Care Act of 2010 (ACA) requires that eligibility for all Medicaid and Children's Health Insurance Program (CHIP) eligibility groups be calculated using a household's modified adjusted gross income (MAGI). Temporary census income is taxable as employment income and must now be counted when calculating household income for MAGI-based Medicaid and CHIP eligibility groups.

In compliance with the ACA, the Department of Health, Bureau of Health Services Financing now proposes to amend the provisions governing Medicaid eligibility for modified adjusted gross income (MAGI) groups and income

factors in order to clarify and align these provisions with current Federal regulations.

#### **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE**

#### **Part III. Eligibility**

#### **Subpart 5. Financial Eligibility**

#### **Chapter 103. Income**

#### **§10307. Modified Adjusted Gross Income (MAGI)**

##### **Groups**

##### **A. MAGI-based**

1. Income shall be calculated in accordance with 42 CFR §435.603 and §457.315.

2. - 29.z.ii. Repealed.

##### **B. - B.1.b.iii. ...**

2. The net countable income for the individual's household shall be compared to the applicable income standard for the household size to determine eligibility.

a. If the countable income is below the income standard for the applicable MAGI group, the individual is income eligible.

b. If the countable income is above the income standard for the applicable MAGI group, the individual is income ineligible.

3. - 5.b. Repealed.

C. Federal Poverty Income Guidelines (FPIG). Eligibility shall be based upon the following guidelines using the federal poverty income guidelines and adjusted to account for the 5 percent disregard:

1. - 4. ...

5. LaCHIP IV (unborn option), income is less or equal to 214 percent FPIG;

6. LaCHIP Affordable Plan, income is less or equal to 255 percent FPIG;

7. Adult Group, income is less than or equal to 138 percent FPIG; and

8. Take Charge Plus, income is less than or equal to 138 percent FPIG.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:947 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

##### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

##### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Analysis**

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2019.

#### **Public Hearing**

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on November 12, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on November 27, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after November 12, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medicaid Eligibility Modified Adjusted Gross Income Groups**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will result in estimated reduction of state general fund programmatic costs of approximately \$21,801 for FY 19-20 but will not result in costs or savings for FY 20-21 and 21-22. It is

anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 19-20 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will decreased federal revenue collections by approximately \$237,844 for FY 19-20, but will not result in an increase or decrease of collections for FY 20-21 and FY 21-22. It is anticipated that \$324 will be collected in FY 19-20 for the federal share of the expense for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

In compliance with the Affordable Care Act of 2010, this proposed rule amends the provisions governing Medicaid eligibility for modified adjusted gross income (MAGI) groups and income factors in order to clarify and align these provisions with current Federal regulations. This proposed Rule makes revisions to the current Louisiana Administrative Code (LAC) language which will eliminate the need for the department to amend the LAC when MAGI-based group income information in the Code of Federal Regulations is amended. Recipients will be impacted by the implementation of this proposed Rule since temporary census income, which was previously disregarded in eligibility calculations, will now be counted. It is anticipated that implementation of this proposed rule will result in programmatic savings to the Medicaid Program of \$260,293 in FY 19-20 but will not result in costs or savings for FY 20-21 and FY 21-22.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule has no known effect on competition and employment.

Jen Steele  
Medicaid Director  
1910#072

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health Bureau of Health Services Financing

#### Medication Attendant Certified—Licensing Standards (LAC 48:I.Chapter 100)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 100 as authorized by R.S. 36:254 and R.S. 37:1026.1 et seq. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of individuals certified by the department to administer medications to nursing facility residents, hereafter referred to as "medication attendants certified" (MACs). The department now proposes to amend the MAC licensing standards to revise and update the training and certification requirements.

## Title 48 PUBLIC HEALTH—GENERAL PART I. General Administration Subpart 3. Licensing

### Chapter 100. Nurse Aide Training and Competency Evaluation Program

#### Subchapter G. Medication Attendant Certified §10080. Definitions

\* \* \*

*Department*—the Louisiana Department of Health (LDH).

\* \* \*

*Licensed Nurse*—a licensed registered nurse or a licensed practical nurse or a RN or LPN practicing in the state under a multistate license from a compact state with a privilege to practice (PTP) in Louisiana in accordance with applicable state statutes and regulations.

*Licensed Practical Nurse*—a person licensed by the LSBPNE to practice practical nursing in Louisiana or a RN or LPN practicing in the state under a multistate license from a compact state with a PTP in Louisiana.

*Medication Attendant Certified (MAC)*—a person certified by LDH to administer medications to nursing facility residents, hereafter referred to as a MAC.

\* \* \*

*Nursing Facility*—an institution licensed pursuant to R.S. 40:2009.1-2009.10.

*Pilot*—Repealed.

*Registered Nurse (RN)*—a person licensed by the LSBN to practice professional nursing in Louisiana or practicing in Louisiana under a PTP.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1413 (July 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

#### §10081. General Provisions

A. The Department of Health (LDH) establishes provisions for the use of medication attendants certified (MACs) in licensed nursing facilities. The department shall maintain a registry of individuals who have, at a minimum, successfully:

1. completed a state-approved MAC training course;
2. passed a competency evaluation administered by a state-approved testing source; and
3. passed drug screening/testing and a statewide criminal background/security check conducted by the Louisiana State Police, or its designee.

B. The MAC registry shall contain the following items:

1. a list of individuals who have successfully completed an approved MAC training curriculum and competency evaluation. Each individual listed shall have the following information maintained on the registry:

- a. - c. ...
- d. telephone number;
- e. - g. ...

- h. state-issued certification number;
- i. documentation of any investigation, if applicable, including findings of:
  - i. - v. ...
  - j. ...
  - k. a current, monitored e-mail address.

C. Registry. Employers shall use the registry to determine if a prospective hire is a MAC and if there is a finding that he/she has abused or neglected an individual being supported or misappropriated the individual's property or funds.

D. Change of Information. A certificate holder shall notify the department as soon as possible but no later than 30 days after changing his or her address, telephone number, e-mail address, or name.

E. Arrest. A MAC, or his or her employer, if aware, shall immediately notify the department of any arrest in any state.

F. Reciprocity. A person who holds a valid license, registration or certificate as a medication attendant issued by another state shall also be certified in Louisiana if the transferring state's training program is at least 120 hours or more and the applicant passes the state-approved MAC competency examination.

- 1. ...
- 2. The application shall include a certified copy of the license or certificate for which the reciprocal certificate is requested.
- 3. ...

G. When issued, an initial certificate shall be valid for 12 months from the date of issue. The registry will renew the certificate if:

- 1. a certificate holder has completed four hours of state-approved continuing education administered by an approved institution focusing on medication administration prior to expiration of the certificate; and
- 2. a certificate holder has worked at least 400 hours per year in a licensed nursing facility.

H. Denial of Renewal. The department shall deny renewal of the certificate of a MAC who is in violation of this Chapter at the time of the application renewal.

I. ...

J. A MAC shall function under the direct supervision of a licensed registered or practical nurse on duty at the nursing facility. Although the performance of selected medication administration tasks are delegated to the MAC by the registered nurse, the registered nurse retains the accountability for the total nursing care of the resident, regardless of whether the care is provided solely by the registered nurse or by the registered nurse in conjunction with other licensed or unlicensed assistive personnel. The MAC shall:

- 1. ...
- 2. comply with the department's rules applicable to such personnel used in a nursing facility.

K. Persons employed as MACs in a nursing facility shall comply with the requirements relating to nurse aides as set forth in the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203 and minimum licensure standards for nursing facilities or subsequent amendments. Requirements are met if the individual is:

- 1. - 2. ...

L. Restriction. While on duty, a MAC's sole function shall be to administer medications to residents. Persons employed as medication attendants in a nursing facility may not be assigned additional responsibilities. If medication administration has been completed, they may assist in other areas.

M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1413 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1248 (May 2012), repromulgated LR 38:1412 (June 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

### **§10082. General Requirements**

A. Prior to application for a certificate under this Chapter, all persons shall:

- 1. be proficient in reading, writing, speaking, and understanding the English language at a minimum eighth grade level as evidenced by the MAC training program's required entry placement test scores.

a. - c. Repealed.

- 2. be a citizen of the United States or a legal alien with appropriate documentation from the U.S. Department of Homeland Security;

3. - 5. ...

- 6. be currently employed in a facility as a certified nurse aide (CNA) on the first official day of an applicant's medication attendant training program or be a graduate of a nursing program;

- 7. have a minimum of one year experience in a nursing home as a CNA or be a graduate of a nursing program; and

- 8. successfully pass a statewide criminal background/security check conducted by the State Police, or its designee, within 90 days of an applicant starting the MAC program and be free of abused substances as evidenced by periodic drug testing in accordance with the NF's policies and procedures. Verification of these results must be received by the training entity, documented, and maintained in the personnel file.

B. A MAC may not administer medication to a resident in a nursing facility unless he/she:

B.1. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1414 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1249 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

### **§10083. Coordinators, Instructors, and Trainers**

A. Program Coordinator. Every MAC training program shall have a program coordinator who provides general supervision of the training received by the MAC trainees.

- 1. The program coordinator shall be a registered nurse (RN) and shall have the following experience and qualifications:

a. a minimum of two years of nursing experience, of which at least one year must be in caring for the elderly or chronically ill, obtained through employment in any of the following:

- i. a nursing facility/unit;
- ii. a geriatrics department;
- iii. a chronic care hospital;
- iv. other long-term care setting; or
- v. experience in varied responsibilities including, but not limited to, direct resident care or supervision and staff education; and

b. completion of Vocational Trade and Industrial Education (VTIE) or Career and Technical Trade and Industrial Education (CTTIE) licensure, "train the trainer" type program, or a master's degree or higher.

2. The program coordinator shall supervise no more than two MAC training programs simultaneously and shall be on the premises where the program is being conducted for at least 50 percent of the duration of the program.

B. Instructors. Instructors shall be RNs or LPNs in a ratio such that not less than 50 percent of the instructors are RNs and shall hold a current, unencumbered Louisiana nursing license or PTP. Licensed practical (vocational) nurses, under the direct supervision of the coordinator, may provide classroom and clinical skills instruction and supervision of trainees if they have two years of experience in caring for the elderly and/or chronically ill of any age or have equivalent experience.

1. Such experience may be obtained through employment in:

- a. a nursing facility;
- b. a geriatrics department;
- c. a chronic care hospital; or
- d. another long-term care setting.

2. Experience in resident care, supervision and staff education is preferred.

3. The ratio of instructors to trainees in clinical training shall not exceed 1:5 and the ratio of instructors to trainees in the classroom shall not exceed 1:15.

C. Program Trainers. Qualified resource personnel from the health field may participate as program trainers as needed for discussion or demonstration of specialized medication procedures.

1. Qualified resource personnel shall have a minimum of one year of experience in their health care field and shall be licensed, registered and/or certified, if applicable, and may include:

- a. registered nurses;
- b. licensed practical/vocational nurses;
- c. pharmacists;
- d. dietitians;
- e. nursing home administrators;
- f. gerontologists;
- g. physical therapists and occupational therapists;
- h. activities specialists; and
- i. speech/language/hearing therapists.

2. All program trainers shall have a minimum of one year of current experience in caring for the elderly and/or chronically ill of any age or have equivalent experience.

3. The training program may utilize other persons such as residents, experienced aides, and ombudsmen as

resource personnel if these persons are needed to meet the planned program objectives or a specific unit of training.

#### D. Trainees

1. Each medication attendant trainee shall be clearly identified as a trainee during all clinical portions of the training. Identification should be recognizable to residents, family members, visitors and staff.

2. Trainees shall take the competency evaluation (through skills demonstration and written examination) within 30 days after completion of the training program. Trainees will be given a maximum of two opportunities within 90 days following completion of the training program to successfully complete the competency evaluation program.

3. If a trainee fails to successfully complete the competency evaluation program, he or she shall re-enroll in a training program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1415 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1249 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:.

### §10084. Training Curriculum

A. - A.4. ...

B. Each medication attendant training program shall provide all trainees with a nursing facility orientation that is not included in the required minimum 120 hours of core curriculum. The orientation program shall include, but is not limited to:

1. - 4. ...
5. employee policies and procedures.

C. ...

1. The core curriculum shall be a minimum of 120 hours in length with a minimum of 45 clinical hours.

C.2. - D.12.b. ...

13. appropriate procedures to follow when the resident is NPO "nothing by mouth", dysphagic, refuses the medication, vomits the medication, or has allergies;

14. - 30. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1415 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

### §10085. Competency Evaluation

A. A competency evaluation shall be developed by the training entity and conducted to ensure that each trainee, at a minimum, is able to demonstrate competencies taught in each part of the training curriculum.

B. ...

C. The entity responsible for the training and competency evaluation shall report to the registry the names of all individuals who have satisfactorily completed the curriculum after the training is completed. Within 15 days after a MAC has successfully completed the training and competency evaluation, the training entity shall notify the registry.



AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1416 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

#### **§10086. Authorized Duties**

A. The MAC may perform certain duties and functions under the direct supervision of a licensed nurse. These authorized duties shall apply to medication attendant trainees under the supervision of the clinical instructor. The ratio of MACs to licensed nurses shall not exceed two medication attendants to one licensed nurse at any given time.

B. MACs may:

1. observe and report to the licensed nurse a resident's adverse reaction to a medication;

2. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1416 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

#### **§10087. Prohibited Duties**

A. Medication attendants certified shall not:

1. ...

2. administer any medications by the following parenteral routes:

a. intramuscular;

b. intravenous;

c. subcutaneous;

d. intradermal; or

e. other routes restricted in department rules;

3. administer any medication used for intermittent positive pressure breathing (IPPB) treatments;

4. - 16. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1416 (July 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

#### **§10088. Provider Participation and Responsibilities**

A. A nursing facility with a license that is in good standing with the department may apply to the department to utilize MACs. Upon receipt of a facility's application, the department shall review the facility's compliance history.

B. If a facility is non-compliant with program regulations, the department shall take into consideration the findings that resulted in the facility's noncompliance before making a determination whether or not to allow the facility to utilize MACs. Emphasis shall be placed on deficiencies cited in the area of medication administration such as significant medication errors, medication error rates and repeat deficiencies of such.

C. The department may deny a facility's request to use MACs if it is determined that, based upon the compliance history, the safety and well-being of residents would be jeopardized. If the facility is denied participation, the facility

may ask for a reconsideration and review of the circumstances which contributed to the denial of the application.

D. The following information shall be provided prior to acceptance in the program:

1. - 2. ...

3. the plan for orientation and utilization of MACs, including orientation of all staff to the role of MACs;

4. the number and type of medication errors in the year prior to the utilization of MACs; and

5. a statement that the nursing facility will utilize the MACs in accordance with the department's rules and regulation and will provide evaluation information as indicated.

6. - 8. Repealed

E. A facility's application that is not complete within 90 days of receipt by the department shall be considered null and void.

F. The department may sanction a facility and/or revoke a facility's participation in the MAC program if it is determined by the department that, based upon the facility's compliance history, the safety and well-being of residents is jeopardized by the facility's non-compliance with licensing standards. If the facility's participation is revoked, the facility may ask for a reconsideration and review of the circumstances which contributed to the revocation of participation in the MAC program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1417 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

#### **§10089. Allegations of Medication Attendant Certified**

##### **Wrong-Doing**

A. The department, through its Division of Administrative Law or successor entity, has provided for a process of the review and investigation of all allegations of resident abuse, neglect or misappropriation of residents' property or funds by MACs.

B. In the event of an allegation of wrong-doing, MACs shall be bound by the department's established:

1. ...

2. informal dispute resolution policies; and

3. appeal and administrative hearing provisions:

a. the formal hearing shall be conducted according to formal hearing procedures set forth in the Administrative Procedure Act.

4.- 4.a. Repealed.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1417 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

#### **§10090. Suspension, Revocation or Denial of Renewal**

A. The department may revoke, suspend or deny renewal of a certificate or reprimand a certificate holder for a violation of this Chapter.

B. - B.3. ...

C. Prior to institution of formal proceedings to revoke or suspend a certificate, the department shall give written notice to the certificate holder of the facts or conduct alleged to warrant revocation, suspension or rescission. The certificate holder shall be given an opportunity to participate in an informal dispute resolution process.

D. - F. ...

1. If a suspension overlaps a certificate renewal date, the suspended certificate holder shall be subject to the renewal procedures pursuant to the provisions of this Subchapter. However, the department shall not renew the certificate until it determines that the reason for suspension no longer exists.

G. If the department revokes or denies renewal of a certificate, a person may reapply for a certificate by complying with the provisions of this Chapter at the time of reapplication. The department may refuse to issue a certificate if the reason for revocation or denial of renewal continues to exist.

1. If a certificate is revoked or denied renewal, the certificate holder shall immediately return the certificate to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 37:1026.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1417 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1250 (May 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 46:

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Analysis**

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2019.

#### **Public Hearing**

The department will conduct a public hearing at 9:30 a.m. on November 27, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. Parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH  
Secretary

#### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

##### **RULE TITLE: Medication Attendant Certified Licensing Standards**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed Rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 19-20. It is anticipated that \$2,484 will be expended in FY 19-20 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will have no effect on revenue collections since the licensing fees, in the same amounts, will continue to be collected.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule amends the provisions governing the licensing of individuals certified by the department to administer medications to nursing facility residents, medication attendants certified (MACs), in order to revise and update the MAC training and certification requirements. Implementation of this proposed Rule will benefit nursing facilities that have expressed interest in utilizing MACs due to reported nursing workforce shortages. It is anticipated that implementation of this proposed Rule will not increase costs to nursing facilities in FY 19-20, FY 20-21 and FY 21-22, but will be beneficial by ensuring that the requirements for MAC licensure are clearly and accurately promulgated in *Louisiana Administrative Code*.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This Rule has no known effect on competition and employment.

Cecile Castello  
Assistant Deputy Secretary  
1910#073

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Health Bureau of Health Services Financing

Pharmacy Benefits Management Program  
Dispense as Written Electronic Prescribing  
(LAC 50:XXIX.Chapters 1, 5, 7, 9 and 11)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XXIX.Chapters 1,2,7,9 and 11 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing currently only allows handwritten “brand necessary” notation of the medical necessity of brand drugs by prescribing providers in the Pharmacy Benefits Management Program. The department has determined that electronic prescriptions are safer in preventing prescription drug errors from the misreading of handwriting, eliminate the ability to alter or manipulate the prescription, and speed up the workflow process. The department now proposes to amend the provisions governing the Pharmacy Benefits Management Program in order to allow notation of the medical necessity of brand drugs using electronic prescriptions, to allow the state to pursue outcomes-based agreements with manufacturers, and to align the provisions with the current Medicaid State Plan.

#### Title 50

### PUBLIC HEALTH MEDICAL ASSISTANCE

#### Part XXIX. Pharmacy

#### Chapter 1. General Provisions

##### §107. Prior Authorization

A. - C.3. ...

D. Drugs Excluded from Coverage. As provided by §1927(d)(2) of the Social Security Act, the following drugs are excluded from program coverage:

1. select agents when used for anorexia, weight loss, or weight gain, except Orlistat (Xenical®);
2. select agents when used to promote fertility, except vaginal progesterone when used for high-risk pregnancy to prevent premature births;
3. select agents when used for symptomatic relief of cough and cold, except prescription antihistamine and antihistamine/decongestant combination products;
4. select prescription vitamins and mineral products, except:
  - a. prenatal vitamins;
  - b. fluoride preparations;
  - c. vitamin A injection;
  - d. vitamin B injection;
  - e. vitamin D (prescription only);
  - f. vitamin K (prescription only);
  - g. vitamin B12 injection;
  - h. folic acid (prescription only);
  - i. niacin (prescription only);
  - j. vitamin B6 injection;
  - k. vitamin B1 injection;
  - l. multivitamin (prescription only);
  - m. magnesium injections;

- n. calcium injection; and
- o. urinary PH modifiers (phosphorus, specifically K Phos Neutral and Phospha Neutral);
5. select nonprescription drugs except OTC antihistamines and antihistamine/decongestant combinations and polyethylene glycol 3350 (Miralax®);
- 6 - 10. Repealed.

#### E. Otherwise Restricted Drugs

1. The state will cover agents when used for cosmetic purposes or hair growth only when the state has determined that use to be medically necessary.
2. Select drugs for erectile dysfunction, except when used for the treatment of conditions, or indications approved by the FDA, other than erectile dysfunction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, Title XIX of the Social Security Act, and the 1995-96 General Appropriate Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1053 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1180 (June 2017), LR 43:1553 (August 2017), LR 45:665 (May 2019), LR 46:

#### §111. Copayment

A. - A.1. ...

\* \* \*

2. The pharmacy provider shall collect a copayment from the Medicaid recipient for each drug dispensed and covered by Medicaid. The following pharmacy services are exempt from the copayment requirements:

a. - d. ...

3. The following population groups are exempt from copayment requirements:

- a. individuals under the age of 21;
- b. individuals residing in a long-term care facility;
- c. individuals receiving hospice care;
- d. Native Americans and Alaskan Eskimos;
- e. women whose basis for Medicaid eligibility is breast or cervical cancer; and
- f. home and community-based services waiver recipients.

B. In accordance with federal regulations, the following provisions apply.

1. The provider may not deny services to any eligible individual on account of the individual's inability to pay the copayment amount. However, this service statement does not apply to an individual who is able to pay, nor does an individual's inability to pay eliminate his or her liability for the copayment.

2. Providers shall not waive the recipient copayment liability.

3. Departmental monitoring and auditing will be conducted to determine provider compliance.

4. Violators of this Section maybe subject to a penalty, including but not limited to, termination from the Medicaid Program.

5. The state will ensure Medicaid premiums and cost sharing incurred by all individuals in the Medicaid household do not exceed an aggregate limit of 5 percent of the family's income applied on a monthly basis.

B.6. - C.4. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 32:1055 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1181 (June 2017), LR 43:1553 (August 2017), LR 46:

#### **§115. Drug Coverage Limits**

A. - 5.c. ...

6. The prescribed drug is an excluded or otherwise restricted drug.

7. ...

8. The prescribed drug is not an immunosuppressant drug prescribed and billed to Medicare for a Title XIX transplant recipient who has Medicare Part B coverage.

9. The prescribed drug is not an immunosuppressant drug covered by Medicare Part B which is prescribed for a nontransplant patient with Medicare Part B coverage and identified in the Title XIX provider manual as subject to special billing procedures.

B. Drug Listing

1. - 2. ...

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1055 (June 2006), LR 32:2083 (November 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1182 (June 2017), LR 46:

#### **§119. Maximum Quantity**

A. ...

B. When maintenance drugs are prescribed and dispensed for chronic illnesses they shall be in quantities sufficient to effect economy in dispensing and yet be medically sound. Maintenance type drugs should be prescribed and dispensed in a month's supply after the initial fill.

1. - 10.c. Repealed.

C. ...

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1056 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1182 (June 2017), LR 46:

### **Chapter 5. Narcotics and Controlled Substances**

#### **§501. Schedule II Narcotic Analgesic Prescriptions**

A. ...

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1058 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1183 (June 2017), LR 46:

### **Chapter 7. Parenteral Nutrition Therapy**

#### **§701. Introduction**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1058 (June 2006), repealed LR 46:

#### **§703. Medical Necessity**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1058 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1183 (June 2017), repealed LR 46:

#### **§707. Prior Authorization**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1060 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1184 (June 2017), repealed LR 46:

#### **§709. Intradialytic Parenteral Nutrition**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1061 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1184 (June 2017), repealed LR 46:

#### **§713. Equipment and Supplies**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1061 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1184 (June 2017), repealed LR 46:

#### **§715. Reimbursement**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1061 (June 2006), repealed LR 46:

### **Chapter 9. Methods of Payment**

#### **Subchapter D. Maximum Allowable Costs**

#### **§949. Fee for Service Cost Limits**

A. - C.3.c. ...

D. Physician Certifications

1. Limits on payments for multiple source drugs shall not be applicable when the prescriber certifies that the brand name drug is medically necessary for the care and treatment of a recipient in his own handwriting or via an electronic prescription. Such certification shall be written directly on the prescription, on a separate sheet which is dated and attached to the prescription, or submitted electronically. A standard phrase such as "brand necessary" indicating the medical necessity of the brand will be acceptable.

2. - 2.c. Repealed.

E. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1065 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1561 (July

2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1185 (June 2017), LR 43:1554 (August 2017), LR 44:1020 (June 2018), LR 45:571 (April 2019), LR 45:665 (May 2019), amended LR 46:

## **Chapter 11. Value-based Agreement Programs**

### **Subchapter E. 340B Program**

#### **§1101. General Provisions**

A. ...

B. LDH may enter into an agreement with a pharmaceutical manufacturer for outcomes-based contracts. Participation by a pharmaceutical manufacturer in an outcomes-based agreement with the department is voluntary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:966 (May 2017), amended LR 45:909 (July 2019), LR 46:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

#### **Small Business Analysis**

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

#### **Public Comments**

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2019.

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on November 12, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on November 27, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after November 12, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH  
Secretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Pharmacy Benefits Management Program—Dispense as Written Electronic Prescribing**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed Rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 19-20. It is anticipated that \$1,512 (\$756 SGF and \$756 FED) will be expended in FY 19-20 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 19-20. It is anticipated that \$756 will be collected in FY 19-20 for the federal share of the expense for promulgation of this proposed Rule and the final Rule.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule amends the provisions governing the Pharmacy Benefits Management Program in order to allow notation of the medical necessity of brand drugs using electronic prescriptions, to allow the state to pursue outcomes-based agreements with manufacturers, and to align the provisions with the current Medicaid State Plan. Recipients and providers will benefit from implementation of this proposed Rule as it has been demonstrated that electronic prescriptions are safer in preventing prescription drug errors from the misreading of handwriting, eliminate the ability to alter or manipulate the prescription, and speed up the workflow process. It is anticipated that implementation of this proposed Rule will not result in costs to the Pharmacy Program in FY 19-20, FY 20-21 and FY 21-22.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule has no known effect on competition and employment.

Jen Steele  
Medicaid Director  
1910#074

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health Bureau of Health Services Financing and Office of Behavioral Health

#### Treatment for Opioid Use Disorder in Opioid Treatment Programs (LAC 50:XXXIII.Chapters 151-157)

The Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health propose to adopt LAC 50:XXXIII.Chapters 151-157 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Section 1006(b) of the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act amended Section 1902(a)(10)(A) of the Social Security Act to add medication-assisted treatment as a mandatory Medicaid benefit, defined as all drugs approved by the Food and Drug Administration (FDA), including methadone.

The Department of Health, Bureau of Health Service Financing and the Office of Behavioral Health propose to adopt provisions governing medication-assisted opioid use disorder (OUD) treatment in Opioid Treatment Programs, for Medicaid-eligible recipients ages 18 and over, diagnosed with OUD.

### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XXXIII. Behavioral Health Services

#### Subpart 16. Coverage for Treatment for Opioid Use Disorder in Opioid Treatment Programs

#### Chapter 151. General Provisions

##### §15101. Introduction

A. The Medicaid Program hereby adopts provisions to provide coverage for medication-assisted treatment provided in Opioid Treatment Programs, including but not limited to, methadone treatment, to all Medicaid-eligible adults and children with opioid use disorder (OUD).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 46:

##### §15103. Recipient Qualifications

A. Adults and children who meet Medicaid eligibility and clinical criteria shall qualify to receive medically necessary OUD services in Opioid Treatment Programs.

B. Qualifying recipients must meet the following criteria:

1. are at least 18 years old, unless the recipient has consent from a parent or legal guardian, if applicable; and

2. meet the federal requirements regarding admission to the Opioid Treatment Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 46:

#### Chapter 153. Services

##### §15301. General Provisions

A. All treatment services must be medically necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 46:

##### §15303. Covered Services

A. The following services provided by Opioid Treatment Programs shall be reimbursed under the Medicaid Program:

1. the administration and dispensing of medications; and

2. treatment phases outlined in LAC 48:I.5725.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 46:

#### Chapter 155. Provider Participation

##### §15501. Provider Responsibilities

A. Each Opioid Treatment Program shall enter into a contract with the managed care organizations (MCOs) and the coordinated system of care (CSoc) contractor in order to receive reimbursement for Medicaid covered services.

B. Opioid treatment programs shall deliver all services in accordance with federal and state laws and regulations, and the provisions of this Rule.

C. Opioid Treatment Programs must be licensed in accordance with state laws and regulations, in addition to operating within their scope of practice license.

D. Opioid Treatment Programs shall retain all records necessary to fully disclose the extent of services provided to recipients for five years from the date of service and furnish such records, and any payments claimed for services, to the Medicaid program upon request.

E. Opioid Treatment Programs shall maintain compliance with state and federal regulatory authorities for operation, including but not limited to the Substance Abuse and Mental Health Services Administration (SAMHSA), the Drug Enforcement Administration (DEA), and the State Opioid Treatment Authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 46:

#### Chapter 157. Reimbursement

##### §15701. Reimbursement Methodology

A. Reimbursement rates for Opioid Treatment Programs shall be a bundled rate included in the Specialized Behavioral Health Fee Schedule as determined by the department.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

**HISTORICAL NOTE:** Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Behavioral Health, LR 46:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

#### **Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it increases access to medication-assisted opioid use disorder treatment services for eligible recipients in need of these services.

#### **Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973972 as it provides Medicaid reimbursement for medication-assisted opioid use disorder treatment services that were previously cash-based only for recipients in need of these services.

#### **Small Business Analysis**

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

#### **Provider Impact Statement**

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since it provides Medicaid reimbursement for the provision of medication-assisted opioid use disorder treatment services to eligible recipients.

#### **Public Comments**

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2019.

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on November 12, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public

hearing at 9:30 a.m. on November 27, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after November 12, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Treatment for Opioid Use Disorder in Opioid Treatment Programs**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated state programmatic costs of approximately \$1,442,423 for FY 19-20, \$3,669,734 for FY 20-21 and \$3,847,724 for FY 21-22. It is anticipated that \$864 (\$432 SGF and \$432 FED) will be expended in FY 19-20 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 66.40 percent in FY 19-20, FY 20-21, and FY 21-22 for the projected non-expansion population, and a blended FMAP rate of 91.50 percent in FY 19-20 and 90.00 percent in FY 20-21 and FY 21-22 for the projected expansion population.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$5,859,016 for FY 19-20, \$14,265,866 for FY 20-21 and \$14,836,501 for FY 21-22. It is anticipated that \$432 will be collected in FY 19-20 for the federal share of the expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 66.40 percent in FY 19-20, FY 20-21, and FY 21-22 for the projected non-expansion population, and a blended FMAP rate of 91.50 percent in FY 19-20 and 90.00 percent in FY 20-21 and FY 21-22 for the projected expansion population.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed rule adopts provisions governing opioid use disorder (OUD) treatment in Opioid Treatment Programs, for recipients ages 18 and over, diagnosed with an OUD, in compliance with Section 1006(b) of the Substance Use Disorder Prevention that Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act, which amended Section 1902(a)(10)(A) of the Social Security Act to add medication-assisted treatment, including methadone treatment, as a mandatory Medicaid benefit. Implementation of this proposed Rule will be beneficial as it ensures that eligible recipients will have access to necessary medication-assisted OUD treatment and providers will receive Medicaid

reimbursement for the provision of these services. It is anticipated that implementation of this proposed rule will result in programmatic costs to the Medicaid program of \$7,300,575 in FY 19-20, \$17,965,600 in FY 20-21 and \$18,684,224 in FY 21-22.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele  
Medicaid Director  
1910#069

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Insurance Office of the Commissioner

##### Regulation 98—Annual Financial Reporting (LAC 37:XIII.Chapter 137)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 98—Annual Financial Reporting by adding a definition for “internal audit function”, amending the provision for a hearing regarding qualification of an independent certified public accountant, adding a requirement for audit committees pertaining to internal audit functions, and adding §13728 pertaining to internal audit function requirements.

The purpose of the amendment to Regulation 98 is to implement and clarify annual financial reporting requirements which will improve the surveillance of the financial condition of insurers by the Department of Insurance and will further the National Association of Insurance Commissioners’ (NAIC) unified effort toward reciprocity among the states.

#### Title 37

#### INSURANCE

#### Part XIII. Regulations

#### Chapter 137. Regulation Number 98—Annual Financial Reporting

#### §13705. Definitions

A. ...

\* \* \*

*Audit Committee*—a committee or equivalent body established by the board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or Group of insurers, the Internal audit function of an insurer or Group of insurers (if applicable), and external audits of financial statements of the insurer or Group of insurers. The Audit Committee of any entity that controls a Group of insurers may be deemed to be the Audit Committee for one or more of these controlled insurers solely for the purposes of Regulation 98 at the election of the controlling person. Refer to §13727.A.6 for exercising this election. If an Audit Committee is not designated by the insurer, the insurer's entire board of directors shall constitute the Audit Committee.

\* \* \*

*Internal Audit Function*—a person or persons that provide independent, objective and reasonable assurance designed to add value and improve an organization's operations and accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:1 et seq., the "Audited Financial Reports Law" R.S. 22:671 et seq., more particularly R.S. 22:675 and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner LR 35:2454 (November 2009), amended LR 45:

#### §13713. Qualifications of Independent Certified Public Accountant

A. - E.3. ...

F. The insurer, as provided in accordance with the requirements of the Administrative Procedure Act, R.S. 49:950 et seq., may request a hearing to determine whether an independent certified public accountant is qualified.

G. - L.2. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:1 et seq., the "Audited Financial Reports Law" R.S. 22:671 et seq., more particularly R.S. 22:675 and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner LR 35:2456 (November 2009), amended LR 45:

#### §13727. Requirements for Audit Committees

A. - A.1. ...

2. The Audit committee of an insurer or Group of insurers shall be responsible for overseeing the insurer's Internal audit function and granting the person or persons performing the function suitable authority and resources to fulfill their responsibilities if required by §13728 of this Regulation.

3. Each member of the audit committee shall be a member of the board of directors of the insurer or a member of the board of directors of an entity elected pursuant to §13727.A.6 and as defined by §13705.

4. In order to be considered independent for purposes of this Section, a member of the audit committee may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee, accept any consulting, advisory or other compensatory fee from the entity or be an affiliated person of the entity or any subsidiary thereof. However, if law requires board participation by otherwise non-independent members, that law shall prevail and such members may participate in the audit committee and be designated as independent for audit committee purposes, unless they are an officer or employee of the insurer or one of its affiliates.

5. If a member of the audit committee ceases to be independent for reasons outside the member's reasonable control, that person, with notice by the responsible entity to the department, may remain an audit committee member of the responsible entity until the earlier of the next annual meeting of the responsible entity or one year from the occurrence of the event that caused the member to no longer be independent.



6. To exercise the election of the controlling person to designate the audit committee for purposes of Regulation 98, the ultimate controlling person shall provide written notice to the commissioners of the affected insurers. Notification shall be made timely prior to the issuance of the statutory audit report and include a description of the basis for the election. The election can be changed through notice to the commissioner by the insurer, which shall include a description of the basis for the change. The election shall remain in effect for perpetuity, until rescinded.

7. The audit committee shall require the accountant that performs any audit for an insurer required by Regulation 98 to timely report to the audit committee in accordance with the requirements of SAS 61, Communication with Audit Committees, or its replacement as well as subsequent statements on auditing standards that may be issued requiring communications to audit committees or others charged with governance including:

- a. all significant accounting policies and material permitted practices;
- b. all material alternative treatments of financial information within statutory accounting principles that have been discussed with management officials of the insurer, ramifications of the use of the alternative disclosures and treatments, and the treatment preferred by the accountant; and
- c. other material written communications between the accountant and the management of the insurer, such as any management letter or schedule of unadjusted differences.

8. If an insurer is a member of an insurance holding company system, the reports required by §13727.A.7 may be provided to the audit committee on an aggregate basis for insurers in the holding company system, provided that any substantial differences among insurers in the system are identified to the audit committee.

9. The proportion of independent audit committee members shall meet or exceed the following criteria.

Prior Calendar Year Direct Written and Assumed Premiums		
\$0 - \$300,000,000	Over \$300,000,000 - \$500,000,000	Over \$500,000,000
No minimum requirements. See also Note A and B.	Majority (50% or more) of members shall be independent. See also Note A and B.	Supermajority of members (75% or more) shall be independent. See also Note A.

Note A: The commissioner has authority afforded by state law to require the entity's board to enact improvements to the independence of the audit committee membership if the insurer is in a Risk Based Capital (RBC) action level event, meets one or more of the standards of an insurer deemed to be in hazardous financial condition, or otherwise exhibits qualities of a troubled insurer.

Note B: All insurers with less than \$500,000,000 in prior year direct written and assumed premiums are encouraged to structure their audit committees with at least a supermajority of independent audit committee members.

Note C: Prior calendar year direct written and assumed premiums shall be the combined total of direct premiums and assumed premiums from non-affiliates for the reporting entities.

10. An insurer with direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and the Federal Flood Program,

of less than \$500,000,000 may make application to the commissioner for a waiver from the §13727 requirements based upon hardship. The insurer shall file, with its annual statement filing, the approval for relief from §13727 with the states that it is licensed in or doing business in and with the NAIC. If the non-domestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:1 et seq., the "Audited Financial Reports Law" R.S. 22:671 et seq., more particularly R.S. 22:675 and the Administrative Procedure Act. R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner LR 35:2459 (November 2009), amended LR 45:

### §13728. Internal Audit Function Requirements

A. Exemption. An insurer is exempt from the requirements of this section if:

1. the insurer has annual direct written and unaffiliated assumed premium, including international direct and assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$500,000,000; and
2. if the insurer is a member of a Group of insurers, the group has annual direct written and unaffiliated assumed premium including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$1,000,000,000.

**NOTE:** An insurer or Group of insurers exempt from the requirements of this section is encouraged, but not required, to conduct a review of the insurer business type, sources of capital, and other risk factors to determine whether an Internal audit function is warranted. The potential benefits of an Internal audit function should be assessed and compared against the estimated costs.

B. Function. The insurer or Group of insurers shall establish an Internal audit function providing independent, objective and reasonable assurance to the Audit committee and insurer management regarding the insurer's governance, risk management and internal controls. This assurance shall be provided by performing general and specific audits, reviews and tests and by employing other techniques deemed necessary to protect assets, evaluate control effectiveness and efficiency, and evaluate compliance with policies and regulations.

C. Independence. In order to ensure that internal auditors remain objective, the Internal audit function must be organizationally independent. Specifically, the Internal audit function will not defer ultimate judgment on audit matters to others, and shall appoint an individual to head the Internal audit function who will have direct and unrestricted access to the board of directors. Organizational independence does not preclude dual-reporting relationships.

D. Reporting. The head of the internal Audit function shall report to the Audit committee regularly, but no less than annually, on the periodic audit plan, factors that may adversely impact the internal Audit function's independence or effectiveness, material findings from completed audits and the appropriateness of corrective actions implemented by management as a result of audit findings.

E. Additional Requirements. If an insurer is a member of an insurance holding company system or included in a Group of insurers, the insurer may satisfy the Internal audit

function requirements set forth in this section at the ultimate controlling parent level, an intermediate holding company level or the individual legal entity level.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:1 et seq., the “Audited Financial Reports Law” R.S. 22:671 et seq., more particularly R.S. 22:675 and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

#### **Family Impact Statement**

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

5. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

#### **Small Business Analysis**

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

#### **Poverty Impact Statement**

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

#### **Provider Impact Statement**

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

#### **Public Comments**

Interested persons who wish to make comments may do so by writing to Lisa Henson, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., November 20, 2019.

James J. Donelon  
Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Regulation 98**

#### **Annual Financial Reporting**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The proposed rule changes add a definition for “internal audit function”, make technical amendments to the provision for a hearing regarding qualification of an independent certified public accountant, add a requirement for audit committees regarding internal audit of insurers, and add §13728 regarding internal audit function requirements and limited exemptions

from these requirements. The purpose of the aforementioned amendments is to conform with the National Association of Insurance Commissioners' (NAIC) Annual Financial Reporting Model Regulation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will benefit consumers by improving the surveillance of the financial condition of insurers under the purview of the LA Dept. of Insurance and will further the NAIC's unified effort toward reciprocity among the states. Furthermore, the proposed rule changes may result in indeterminable additional costs for insurers to the extent they must increase their internal audit functions to comply with the new regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Nicholas Lorusso  
Chief Deputy Commissioner  
1909#061

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Insurance Office of the Commissioner

#### Regulation 114—Claims Adjuster Pre-Licensing Education Program (LAC 37:XIII.Chapter 165)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:1 et seq., and specifically R.S. 22:11, the Department of Insurance hereby gives notice of its intent to promulgate Regulation 114—Claims Adjuster Pre-Licensing Education Program. The Department of Insurance is promulgating Regulation 114 to establish the requirements and the procedure for approving claims adjuster pre-licensing education programs, the providers and the examination of candidates for licensure by the Department of Insurance pursuant to R.S. 22:1668.

#### Title 37

#### INSURANCE

#### Part XIII. Regulations

#### Chapter 165. Regulation Number 114—Claims Adjuster Pre-Licensing Education Program

##### §16501. Purpose

A. The purpose of Regulation 114 is:

1. to provide for the submission of approved programs to be listed on the web page of the Louisiana Department of Insurance;
2. to establish the requirements and set forth the procedure for approval of programs by the commissioner;
3. to establish the requirements and set forth the procedure for approval of providers of the programs by the commissioner.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

##### §16503. Applicability and Scope

A. Regulation 114 shall apply to programs and the providers, instructors and supervisory instructors of those programs as defined herein.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

##### §16505. Authority

A. Regulation 114 is promulgated by the commissioner pursuant to the authority granted under the Louisiana Insurance Code, R.S. 22:11, 22:821, 22:1668 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:11, 22:821, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

**HISTORICAL NOTE:** Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

##### §16507. Definitions

A. For the purposes of Regulation 114, the following terms shall have the meaning ascribed herein unless the context clearly indicates otherwise.

*Commissioner*—the Commissioner of Insurance for the State of Louisiana.

*Candidate*—an individual seeking a claims adjuster license.

*Claims Adjuster*—an individual who investigates or adjusts losses on behalf of an insurer as an independent contractor or as an employee of:

- a. an adjustment bureau;
- b. an association;
- c. a property and casualty producer;
- d. an independent contractor;
- e. an insurer; or
- f. a managing general agent.

*Program*—a program of education designed to instruct individuals in the duties and responsibilities of claims adjusters and the insurance laws and regulations of this state which meets the requirements of this regulation and is approved by the commissioner.

*Instructor*—a subject matter expert presenting course activities or information in a classroom setting, whether in person or via the internet.

*Supervisory Instructor*—an instructor responsible for the conduct of any other instructors or guest instructors and responsible for assuring the quality of the program.

*Person*—an individual or a business entity.

*Provider*—an entity presenting a claims adjuster pre-licensing education program.

*Self-Study Program*—an internet, CD-ROM, DVD or other computer-based presentation or a correspondence course.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

#### **§16509. Claims Adjuster Pre-Licensing Education**

##### **Program Optional**

A. Nothing in this regulation shall be construed to require participation in such program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

#### **§16511. Posting of Information for Claims Adjuster Pre-Licensing Education**

A. The commissioner shall make available on the website of the Louisiana Department of Insurance the following information:

1. the name and contact information for all providers of programs approved pursuant to this regulation;
2. the line or lines for which each program is approved;
3. the annual pass/fail ratio for each approved program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

#### **§16513. Program Approval Requirements**

A. An application submitted by a provider for approval of a program shall be submitted to the commissioner a minimum of 30 days prior to the actual use of the program. Each application shall be on the form and in the format required by the commissioner and shall include:

1. the full legal name and Federal Employer Identification Number (FEIN) of the provider of the program;
2. a statement designating the line or lines of insurance for which the provider is seeking approval of the program;
3. an outline of the program including a list of resource material to be used, a copy of the textbook to be used, a description of the training aids to be used, a detailed description of the program, a schedule of the program which clearly indicates the time spent on each subject and the cost of the program to each candidate;
4. a statement of the method used to determine whether there has been a positive achievement of education on the part of the candidate taking the program; such method may be a written examination, a written report by the candidate, certification by the provider of the attendance or completion of the program by the candidate, or any other method approved by the commissioner as appropriate for the subject;

5. if the program is not a self-study program, a schedule of locations (including physical address including room or suite number) where the program will be offered and a schedule of times and dates when the program will be offered; any change in the schedule of locations, dates or time of program presentation or additional presentations of the program shall be filed with the commissioner not less than three days prior to the scheduled beginning date of the program presentation; all facilities shall meet the requirements as set forth in this regulation;

6. a description of the measures used by the provider to verify the identity of the candidates;

7. if the program is a self-study program, a description of the technical support available to candidates including the business hours of the support and the proposed length of time for response by the provider to any inquiries;

8. if the program is a self-study program, a user ID and log-in credentials to permit viewing of the program that will be presented to the candidates.

B. Any assertion for program material to be deemed confidential, proprietary or trade secrets must be made pursuant to R.S. 44:3.2.

C. In order for a program to be approved, the program content shall, at a minimum, directly correlate to the topics included in the current examination content outlines. Programs may be approved for the following lines and shall provide the indicated minimum number of credit hours for each line for which it is approved:

1. automobile—8 credit hours;
2. commercial lines—20 credit hours;
3. crop—8 credit hours;
4. personal lines—20 credit hours;
5. property and casualty—30 credit hours;
6. workers' compensation—8 credit hours.

D. A provider shall notify the commissioner of any material change in the information submitted with an application for approval a minimum of 30 days prior to the scheduled beginning date of the program presentation. A material change shall include any of the following:

1. change(s) to the instructors or the supervisory instructor of the program;
2. change(s) to the facility where the program will be presented;
3. change(s) to the text books, resource material or training materials to be used in the program.

E. If a provider utilizes published program materials, including text books, outlines or other similar materials, each candidate must be provided with a complete original copy of the material as part of the fee for the course. This material shall be retained by the candidates. The provider may not require the candidates to return or resell this material to the provider. No substitute text books, outlines, summaries or copyright infringement is permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

#### **§16515. Program Expiration**

A. Approval of a program shall expire three years from the date of the commissioner's initial approval. A provider may request renewal of the approval by submitting all information required by this regulation to the commissioner a minimum of 60 days prior to the expiration of the approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

#### **§16517. Provider Approval Requirements**

A. A provider for a program shall be one of the following:

1. an insurance trade association;
2. an insurance company admitted to do business in Louisiana;
3. an accredited public or private college or university;
4. a person otherwise certified by the commissioner.

B. A person seeking approval as a provider for a program from the commissioner shall submit an application to the commissioner on the forms required. The application shall include:

1. the full, legal name and Federal Employer Identification number (FEIN) of the person making application;
2. the names and addresses of every officer, director, partner or member of the provider;
3. the names and addresses of every person owning, directly or indirectly, 10 percent or more of the provider;
4. the name, address and a description of the professional qualifications of each instructor and the supervisory instructor of the provider;
5. the principal place of business of the provider;
6. certification from the provider that all instructors and the supervisory instructor presenting the program meet the requirements as set forth in this regulation;
7. a general description of the types of programs presented by the provider;
8. a description of the qualifications and experience of the persons responsible for the creation of the programs;
9. the fee required by R.S. 22:821(29);
10. such other information as the commissioner may require to confirm compliance with this regulation.

C. Every provider shall maintain a signed statement from each instructor and the supervisory instructor describing the basis for his/her qualification and affirmation that he/she shall comply with the requirements of this regulation.

D. Every approved provider shall notify the commissioner of any material change in the information submitted with the application within 30 days of the effective date of the change. Every such notice shall include the same information as was required with the initial application. A material change shall include, but not be limited to:

1. a change of the name of the provider;
2. a change in the address of the provider;
3. a change of officer, director, partner or member of the provider;
4. the merger of the approved provider;
5. a change in ownership of 10 percent or more of the provider;
6. a change in an instructor or the supervisory instructor of the provider.

E. If the provider is a natural person, that natural person shall notify the commissioner of:

1. any administrative action taken against the provider for insurance related practices by any regulatory or governmental agency;
2. any conviction or entry of a nolo contendere plea to any felony, participation in a pretrial diversion program pursuant to a felony charge, or conviction of any

misdemeanor involving moral turpitude or public corruption on the part of the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

#### **§16519. Provider Approval Expiration**

A. Every approval of a provider shall expire three years from the date of issuance of the commissioner's approval and may be renewed by filing a renewal application as required by the commissioner a minimum of 90 days prior to expiration.

B. Upon expiration of the commissioner's approval of a provider, the commissioner's approvals of the programs presented by that provider shall be rescinded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668 and 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

#### **§16521. Instructor Qualifications**

A. Every provider of a program shall designate an individual as a supervisory instructor. The supervisory instructor shall be responsible for the conduct of any other instructors or guest instructors and shall be responsible for assuring the quality of the program. Every supervisory instructor shall have a minimum of five years of insurance experience, and/or graduate level or professional education satisfactory to the commissioner.

B. All instructors shall meet at least one of the following criteria:

1. a minimum of three years of experience as an insurance instructor with experience in the subject area being taught;
2. have been licensed for at least five years as a producer, claims adjuster, or insurance consultant in this state or another;
3. hold a national designation directly related to the subject matter being taught;
4. be in a profession pertinent to the subject matter being taught.

C. Special consideration may be granted by the commissioner where it is determined that the specific background of the instructor or the supervisory instructor warrants such consideration.

D. Every instructor and supervisory instructor shall notify the provider and the commissioner of:

1. any administrative action taken against the instructor/supervisory instructor for insurance related practices by any regulatory or governmental agency;
2. any conviction or entry of a nolo contendere plea to any felony, participation in a pretrial diversion program pursuant to a felony charge or conviction of any misdemeanor involving moral turpitude or public corruption on the part of the instructor/supervisory instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

### **§16523. Training Facilities Requirements**

A. At a minimum, all training facilities shall:

1. provide an atmosphere conducive to educational presentation, including good housekeeping, controlled environment as to heating and cooling, proper lighting and proper furnishing;

2. be easily accessible and secure for the safety of the candidates;

3. be dedicated for the exclusive use of the program while in session;

4. provide ready access to restrooms and other facilities of human needs to the candidates;

5. provide a proper layout so as to ensure that training aids, overhead viewing equipment and other such aids are easily visible by all candidates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

### **§16525. Program Oversight**

A. The commissioner or his designee shall have the authority to visit a training facility for the purpose of oversight and review at any time. Oversight visits may include the review of curriculum records, review of attendance records, observation of instructional sessions in progress, and any other aspects of the program deemed necessary by the commissioner to comply with the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22: 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

### **§16527. Program Completion**

A. Every provider shall submit a report to the commissioner a minimum of 30 days from the program completion date of a candidate. The report shall be in a format compatible with the commissioner's specifications to facilitate the electronic reporting and transfer of attendance and successful completion information. The report shall contain the identification number assigned to the program by the commissioner, the name and such distinct information as necessary to clearly identify all candidates who successfully completed the program, and the date of completion.

B. Every provider shall present a certificate of successful completion to each candidate who successfully completes the program. This certificate shall be on a form acceptable to the commissioner and shall include the name of the candidate, the date of completion and the identification number assigned to the program by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

### **§16529. Fees**

A. All applications submitted to the commissioner seeking approval of a program or approval to become a provider shall be accompanied by the fee set forth in R.S. 22:821(29).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:821, 22:1668, 22:1678, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

### **§16531. Complaints**

A. The commissioner shall review all complaints lodged against a program, a provider, an instructor or the supervisory instructor of a program. Every provider shall respond to an inquiry from the commissioner regarding a complaint no later than 30 days from receipt of such inquiry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

### **§16533. Violations**

A. The commissioner may deny, suspend, or rescind the approval of a provider or a program should he find the program, provider, an instructor, or the supervisory instructor of the program has violated any provision of this regulation or any applicable provisions of the Louisiana Insurance Code, or that continued operation of the program is not in the best interest of the citizens of this state or the insurance buying public.

B. An aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with R.S. 22:2191 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678, 22:2191 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

### **§16535. Effective Date**

A. Regulation 114 shall become effective upon final publication in the Louisiana Register and shall apply to any act or practice committed on or after the effective date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

### **§16537. Severability**

A. If any section or provision of Regulation 114 or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other sections or provisions or the application of Regulation 114 to any persons or circumstances that can be given effect without the invalid section or provision or application, and for these purposes the sections and provisions of Regulation 114 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:1668, 22:1678 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:

### **Family Impact Statement**

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed regulation should have no impact upon the rights and authority of parents regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed regulation should have no impact upon the behavior and personal responsibility of children.

5. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

#### **Small Business Analysis**

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

#### **Poverty Impact Statement**

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

#### **Provider Impact Statement**

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

#### **Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Such comments must be received no later than November 20, 2019, by close of business or by 4:30 p.m. and should be addressed to Zata Ard, Louisiana Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214, or faxed to (225) 342-1632. If comments are to be shipped or hand-delivered, please deliver to Poydras Building, 1702 North Third Street, Baton Rouge, LA 70802.

James J. Donelon  
Commissioner

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Regulation 114—Claims Adjuster Pre- Licensing Education Program**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rules may result in marginal expenditure increases for the LA Dept. of Insurance (LDI) that will likely be offset in whole or in part by two existing fees (see Part II) for a new, optional service provided by the department. The proposed rules establish the requirements and procedures for approving claims adjuster pre-licensing education programs, the program providers, and the examination of candidates for licensure by LDI. LDI shall make available on the LDI website the name and contact information for all providers of programs approved pursuant to this regulation; the line or lines for which each program is approved; and the annual pass/fail ratio for each approved program.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rules may increase SGR collections for LDI by an indeterminable amount. As required under R.S. 22:821(29), there is a \$250 provider application fee for pre-licensing education providers and a fee of \$25 per program or course. LDI is not currently collecting these fees associated with claims adjuster pre-licensing education programs. The number of course providers and the courses/programs they will offer is presently unknown, therefore the revenue increase

associated with the proposed rules is indeterminable, however any revenue raised from this source represents new SGR collections for the department.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules may have a cost to Claims Adjuster Pre-Licensing Education Programs that choose to register with the LDI, as they would have to provide LDI application documents and a \$250 application fee and \$25 fee per program or course. However, in registering with the LDI, they will gain benefits by being easily accessible to Claims Adjusters seeking to participate in their education programs. The proposed regulation will also benefit Claims Adjusters by gaining easy access to a list of approved pre-licensing programs on the LDI website.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules may affect competition among firms providing pre-licensing education programs, as those pre-approved by the LDI may realize greater market share than those not pre-approved by LDI.

Nicholas Lorusso  
Chief Deputy Commissioner  
1909#075

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Public Safety and Corrections Office of Motor Vehicles

Liquefied Petroleum Gas  
(LAC 55:IX.105, 107, 109, 113, 177, 181, 205 and 1513)

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, in accordance with R.S. 40:1846 and with the Administrative Procedure Act., R.S. 49:950 et seq., hereby gives notice of its intent to amend the following sections: 105 with regard to applications, 107 with regard to general requirements of permit holders to include a change to filing fees and continuing education requirements, 109 to rescind proposed civil penalties, 113 with regard to correcting verbiage of initial promulgation, 133, 177, 181 and 205 to adopt the 2017 edition of the NFPA 58 and 1513 with regard to correcting language/codification per Class A2 permits.

#### Title 55

#### PUBLIC SAFETY

#### Part IX. Liquefied Petroleum Gas

#### Chapter 1. General Requirements

#### Subchapter A. New Dealers

#### §105. Applications

A. Any person, firm, or corporation desiring to enter the liquefied petroleum gas business in the state of Louisiana shall file formal application for a permit or registration with the commission. In the case of Class VI and Class VIII permits, a formal application for a permit shall be filed for each location. All other classes of permits and registrations require only one formal application for the permit or registration. These applications for permits or registrations shall be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fees, qualification of personnel, providing proof of insurance and if applicable,

final approval of a sketch, registration and safety inspection of tanker trucks. The commission shall ratify the permits or registrations at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified for Class I, IV and VI. The applicant's supplier is prohibited from being the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit to be represented by another party other than a principal officer, director, manager, or attorney. The formal application form(s) will be furnished by the commission upon request.

#### B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 24:460 (March 1998), LR 25:1262 (July 1999), LR 29:2509 (November 2003), LR 31:2567 (October 2005), LR 33:1139 (June 2007), effective July 1, 2007, LR 38:1256 (May 2012), LR 45:

#### §107. Requirements

A. Before any permit or registration may be issued from the office of the director, all applicants shall have complied with or agree to comply with the applicable requirements as follows:

1. Shall deposit filing fee of \$100 for Class I, IV and VI; \$50 for Class VI-X and \$25 for all remaining permits. This fee shall accompany application.

2. - 8.c.i.(f). ...

ii. Continuing Education

(a). Class I employees with a commission certificate of competency shall have six hours of approved continuing education every year in order to maintain their certificates of competency.

8.c.ii.(b). - 15. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000), LR 27:2256 (December 2001), LR 28:2553 (December 2002), LR 29:2509 (November 2003), LR 31:2567 (October 2005), LR 33:1140 (June 2007), effective July 1, 2007, LR 35:2201 (October 2009), LR 35:2465 (November 2009), LR 38:1256 (May 2012), LR 41:395 (February 2015), LR 42:427 (March 2016), LR 42:1671 (October 2016), LR 43:967 (May 2017), LR 45:

#### §109. Compliance with Rules

A. - C. ...

D. Repealed.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.



HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 25:2411 (December 1999), LR 31:2567 (October 2005), LR 38:1259 (May 2012), LR 45:

### **§113. Classes of Permits and Registrations**

A. - A.2.e. ...

3. Class III Brokers/Special Vendors. Holders of these permits may purchase liquefied petroleum gas only from dealers who hold a valid liquefied petroleum gas permit and resell the aforementioned purchased liquefied petroleum gas product to end users utilizing floor maintenance machines and/or industrial trucks (forklifts) on their premises. Holders of these permits shall not deliver gas or engage in repairing liquefied petroleum gas containers or systems.

3.a. - 13.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 3:315 (July 1977), amended LR 7:633 (December 1981), LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 12:841 (December 1986), LR 15:855 (October 1989), LR 16:1063 (December 1990), LR 19:904 (July 1993), LR 20:1400 (December 1994), LR 21:701 (July 1995), LR 24:461 (March 1998), LR 25:2411 (December 1999), LR 29:2509 (November 2003), LR 33:1141 (June 2007), effective July 1, 2007, LR 38:1259 (May 2012), LR 41:395 (February 2015), LR 43:967 (May 2017), LR 45:

### **Subchapter B. Dealers**

#### **§133. Shall Purchase Containers Manufactured by Manufacturers Acceptable to the Authority Having Jurisdiction**

A. ...

B. A manufacturer of liquefied petroleum gas containers shall be listed by the commission as acceptable when it has met or exceeded the requirements of Chapter 5, NFPA 58, 2017 edition and provided documentation acceptable to the commission of the same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:465 (March 1998), LR 38:1263 (May 2012), LR 42:427 (March 2016), LR 45:

### **Subchapter G. Systems Utilizing ASME and D.O.T. Containers**

#### **§177. Appliance Installation and Connections**

A. - C.3.e. ...

f. combustion and ventilation air is provided as specified in Part 9.3 of the National Fuel Gas Code, NFPA-54, 2018 edition, that the commission has adopted.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:469 (March 1998), LR 25:2412 (December 1999), LR 38:1268 (May 2012), LR 45:

### **Subchapter I. Adoption of Standards**

#### **§181. National Fire Protection Association Pamphlet Numbers 54 and 58**

A. The Liquefied Petroleum Gas Commission hereby adopts the *National Fuel Gas Code*, 2018 edition. The National Fire Protection Association designation is NFPA 54 2018. The Liquefied Petroleum Gas Commission also adopts the *Liquefied Petroleum Gas Code*, 2017 edition. The National Fire Protection Association designation is NFPA 58 2017 edition.

B. - D.1. ...

E. The following are exceptions to the code and standards referenced in §181.A.

1. - 5. Repealed.

6. Pursuant to §6.27.3.16, *Shut-Off Valve on End of Transfer Hose*, NFPA 58-2017 edition, the provisions of §6.27.3.16 shall be considered met in Louisiana if a listed quick-acting shut off valve with positive lock off or a listed globe valve is installed at the discharge end of the transfer hose.

7. Pursuant to §7.4.3.1, NFPA 58-2017 edition, the maximum permitted filling limit for any container, where practical, shall be determined by weight. DOT specification cylinders of 200 lbs. propane capacity or less that are in commerce or transportation shall be filled by weight only. Exceptions:

a. - c. ...

8. Repealed.

9. Pursuant to §9.3.2.9, NFPA 58-2017 edition, clarification for cylinders being transported. Liquefied petroleum gas cylinders having a 4 pound liquefied petroleum gas capacity or greater shall be transported having the relief valve in communication with the vapor space of the cylinder.

10. Pursuant to §8.4.2.2, NFPA 2017 edition, the following provisions shall be met:

a. - f. ...

11. Repealed.

12. Pursuant to §6.8.1.6, *Flotation Prevention-Clarification*, NFPA 58-2017 edition, installations requiring flotation prevention measures may use either the commission's guidelines or use methods or products from a qualified agency with proper documentation acceptable to the commission.

13. Repealed.

14. Pursuant to §6.21.2.1, *Installation of Liquid Transfer Facilities*, NFPA 58-2017 edition, when vented liquefied petroleum gas is used as the sole method of transferring liquid liquefied petroleum gas from one container to another (i.e. pressure differential, gravity filing), the distances in table 6.7.2.1 shall be doubled.

15. Pursuant to §6.26, *L. P. Gas on Vehicles (other than engine fuel systems)*, NFPA 58- 2017 edition, the office of the director may establish inspection procedures (including decals of approval) for mobile units utilizing liquefied petroleum gas to fuel appliances. These inspection procedures would be in addition to applicable regulations of NFPA 58, 2017 edition.

16. Pursuant to NFPA 58-2017 edition, *Vehicle Barrier Protection (VBP)*, as defined in Section 3.3.88 and to protect containers from vehicular impact installed in the scope of

Chapter 6 of the this edition, including but not limited to *Vehicle Fuel Dispensers and Dispensing Systems* in Section 6.27, dealers may use either the commission's guidelines established, or use methods or products from a qualified agency, including engineers with proper documentation acceptable to the commission that adequate vehicle barrier protection has been provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1404 (December 1994), amended LR 24:470 (March 1998), LR 25:1263 (July 1999), LR 25:2412 (December 1999), LR 27:2257 (December 2001), LR 31:2568 (October 2005), LR 37:913 (March 2011), LR 38:1269 (May 2012), LR 45:

**Chapter 2. School Bus and Mass Transit Installations**  
**§205. Installation of Liquefied Petroleum Gas Systems Used as Engine Fuel System for School Bus/Mass Transit Vehicles**

A. Installation of a liquefied petroleum gas system used as an engine fuel system for school bus/mass transit vehicles shall be in accordance with the applicable sections of Chapter 11 of the NFPA 58 of the 2017 edition that the commission has adopted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:866 (August 1992), amended LR 24:471 (March 1998); LR: 26:1488 (July 2000), LR 38:1271 (May 2012), LR 41:396 (February 2015), LR 45:

**Chapter 15. Sale, Storage, Transportation and Handling of Anhydrous Ammonia**

**Subchapter A. New Dealers**  
**§1513. Classes of Permits**

A. - A.1.d. ...

e. Shall pay an initial permit fee for the first year of operation in the amount of \$300 to the commission. For all succeeding years, the permit fee shall be one-half of 1 percent of the gross annual sales of anhydrous ammonia or \$300, whichever is greater.

f. - 1. ...

2. Class A2. Holders of these permits may install and service anhydrous ammonia containers, piping and appliances, but shall not deliver anhydrous ammonia.

a. Shall file formal application for a permit with the commission. These applications for permits shall be administratively granted by the office of the director, upon complying with all commission requirements, such as payment of the applicable fee, qualification of personnel, providing proof of insurance and if applicable, final approval of a sketch, registration and safety inspection of tanker trucks. The commission shall ratify the permits at the first subsequent commission meeting after at least 20 days have elapsed after the permit has been administratively granted by the office of the director. Presence of applicant for the permit or his authorized representative is required at the commission meeting when the application for a permit is ratified. In no case will the applicant's supplier be the authorized representative. Only with special approval of the commission, under extenuating circumstances, will the commission allow the applicant for a permit other than a principal officer, director, manager, or attorney. The formal

application form(s) shall be furnished by the commission upon request.

A.2.b. - A.5.j. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354. Effective August 15, 2010, Act 579 of the 2010 Regular Session, repealed R.S. 3:1354 and enacted R.S. 40:1911 et seq., and particularly R.S. 40:1914 as authority for anhydrous ammonia regulations.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:899 (July 1993), LR 25:2413 (December 1999), amended LR 27:423 (March 2001), repromulgated LR 27:565 (April 2001), LR 33:1144 (June 2007), effective July 1, 2007, LR 38:1274 (May 2012), LR 45:

**Family Impact Statement**

1. The effect of this Rule on the stability of the family. This Rule should not have any effect on the stability of the family.

2. The effect of this Rule on the authority and rights of parents regarding the education and supervision of their children. This Rule should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of this Rule on the functioning of the family. This Rule should not have any effect on the functioning of the family.

4. The effect of this Rule on family earnings and family budget. This Rule should not have any effect on family earnings and family budget.

5. The effect of this Rule on the behavior and personal responsibility of children. This Rule should not have any effect on the behavior and personal responsibility of children.

6. The effect of this Rule on the ability of the family or local government to perform the function as contained in the proposed rules. This Rule should not have any effect on the ability of the family or local government to perform the function as contained in the proposed rules.

**Small Business Impact**

1. The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

2. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

**Poverty Statement**

1. The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the R.S. 49:973.

2. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

### Provider Impact Statement

The proposed rules do not impact or affect a "Provider." "Provider" means an organization that provides services for individuals with developmental disabilities as defined in HCR 170 of the 2014 Regular Session of the Legislature. In particular, the proposed rules have no effect or impact on a "Provider" in regards to:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the provider to provide the same level of service;
3. the ability of the provider to provide the same level of service.

### Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than November 7, 2019 at 4:30 p.m. to Melinda L. Long, 7979 Independence Boulevard, Suite 307, Baton Rouge, LA 70806 or by Fax: (225) 925-4624. A public hearing will be scheduled pursuant to R.S. 49:953(A)(1)(a) if needed.

John W. Alario  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Liquefied Petroleum Gas

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes are not anticipated to result in additional costs or savings for state or local governmental units. The proposed rule adopts standards for repairs made to manufactured homes that are built after July 15, 1976, and are no longer in compliance with the standards in which they were built, requiring that repairs shall be made in accordance with specified construction and safety standards as referenced.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated impact on revenue collections for state or local governments as a result of the proposed rules.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The adoption of the proposed rule is anticipated to impact directly affected persons or non-governmental groups. It is anticipated that owners of manufactured homes may realize an indeterminate increase in costs to repair their homes in accordance with the adopted standards. The cost cannot be quantified due to the type and/or number of repairs that need to be made. Electricians, plumbers and other professionals may realize economic benefits arising from changes to repair standards for manufactured homes.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is an anticipated positive effect on employment as a result of the proposed rule changes. Instead of making repairs themselves, owners of manufactured homes that need to be repaired may hire electricians, plumbers or other professionals to make the repairs.

Lt. Col. Jason Starnes  
Deputy Superintendent/CAO  
1909#064

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Public Safety and Corrections Office of State Fire Marshal

#### Manufactured Housing Repairs (LAC 55:V.555 and 557)

Under the authority of R.S. 51:911.26(E) and (F)(11) and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of State Fire Marshal, Manufactured Housing Commission, gives notice that Rulemaking procedures have been initiated to amend, supplement, expand portions of and readopt the manufactured housing commission regulations, LAC 55:V.Chapter 5. The proposed Rule adopts standards for repairs made to manufactured homes that are built after July 15, 1976 and are no longer in compliance with the standards to which they were built.

#### Title 55

#### PUBLIC SAFETY

#### Part V. Fire Protection

#### Chapter 5. Manufacture Housing (Installation)

#### Subchapter C. Repairs

#### §555. Definitions

A. When used in these regulations, these terms shall have the following meanings.

*Act*—the National Manufactured Home Construction and Safety Standards Act of 1974, as amended, the Housing and Community Development Act of 1974 (42 U.S.C. 5401 et seq.).

*HUD*—the United States Department of Housing and Urban Development.

*Inspect*—a visual examination of manufactured homes to verify that it appears to be in operating condition and is free of physical damage.

*Local Jurisdiction*—city, town, township, parish, village, or other general purpose political subdivision of the State of Louisiana that has the authority to make legal pronouncements and administer judicial and regulatory enforcement to individuals and companies who are conducting transactions within the given geographical location.

*LSUCCC*—the Louisiana State Uniform Construction Code Council.

*Manufactured Home* and *Manufactured Housing*—a prefabricated, factory built home built on a permanent chassis which can be transported in one or more sections and is typically used as a permanent residential dwelling unit. Homes built since 1976 are constructed to standards and codes, as promulgated by the United States Department of Housing and Urban Development (HUD), under the National Manufactured Home Construction and Safety Standards Act of 1974, as amended, the Housing and Community Development Act of 1974, 42 U.S.C. 5401 et seq., as amended. Further, the terms "manufactured home" and "manufactured housing" may be used interchangeably and apply to structures bearing the permanently affixed seal of the United States Department of Housing and Urban Development.

*Public Entity*—the state and any of its branches, departments, offices, agencies, boards, commissions, instrumentalities, officers, officials, employees, and political

subdivisions and the departments, offices, agencies, boards, commissions, instrumentalities, officers, officials and employees of such political subdivision.

*Standards*—the federal manufactured housing construction and safety standards promulgated under Section 604 of the Act, 42 U.S.C. 5403, Part 3280.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.26(E).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Fire Marshal, LR 45:

#### **§557. Repair Requirements**

A. All repairs made to used manufactured homes constructed after July 15, 1976 that are no longer in compliance with the standards to which they were built or standards and codes, as promulgated by the United States Department of Housing and Urban Development (HUD), under the National Manufactured Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et seq.*, as amended, shall be in accordance with the standards incorporated by reference in the most current edition of the National Manufactured Home Construction and Safety Standards, specifically CFR Title 24, Part 3280.4.

B. Pursuant to R.S. 40:1730.23(B), repairs to driveways, steps, decks, or other similar accessory or work, not including any additional living area or other type of heated and cooled space outside of the original footprint of the manufactured home, shall be performed in accordance with the standards referenced herein.

C. The Office of State Fire Marshal shall use employees that are registered with the LSUCCC as Building Officials to oversee inspection of all repairs, not to include repairs which are performed under warranty and/or repairs pursuant to installations and set ups of manufactured homes. Upon completion of a final, approved inspection, the Office of State Fire Marshal shall provide all applicable reports to the local governing authority, which may utilize the report in determining the reinstatement of services, utilities, and any and all other amenities that were discontinued due to the damage incurred to the manufactured home which prompted the repairs.

D. Inspections shall be limited to that which is visible and accessible without requiring deconstruction or destructive testing.

E. The owner of a structure shall employ an electrician that is licensed in the state of Louisiana to perform any needed repairs to the electrical system. Upon the letterhead of the licensed electrician, it shall state the address of the location of the manufactured home where the work was executed, the date that the work was completed, the scope of the work performed and the standards applied to the scope of work. It shall also contain a statement that the work has been completed in accordance with the referenced standards.

F. In the absence of the availability of the employees of the Office of State Fire Marshal who are registered Building Officials, the Office of State Fire Marshal shall give written notification to the local jurisdictions to conduct said inspections.

G. Pursuant to R.S. 9:2798.1, liability shall not be imposed on public entities or their officers or employees based upon the exercise or performance or the failure to exercise or perform their policymaking or discretionary acts when such acts are within the course and scope of their

lawful powers and duties. These provisions are not applicable:

1. to acts or omissions which are not reasonably related to the legitimate governmental objective for which the policymaking or discretionary power exists; or

2. to acts or omissions which constitute criminal, fraudulent, malicious, intentional, willful, outrageous, reckless, or flagrant misconducts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:911.26(E), R.S. 51:911.26(F)(11) and R.S. 40:1730.23(B).

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Fire Marshal, LR 45:3 (April 2019), effective March 25, 2019, amended LR 45:

#### **Family Impact Statement**

1. The effect of this Rule on the stability of the family. The proposed Rule should have a positive effect on the stability of the family, as it will assist families with the standards to repair their homes.

2. The effect of this Rule on the authority and rights of parents regarding the education and supervision of their children. The proposed Rule should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of this Rule on the functioning of the family. The proposed Rule should have a positive effect on the functioning of the family.

4. The effect of this Rule on family earnings and family budget. The proposed Rule should have a minimal effect on family earnings and family budget.

5. The effect of this Rule on the behavior and personal responsibility of children. The proposed Rule should not have any effect on the behavior and personal responsibility of children.

6. The effect of this Rule on the ability of the family or local government to perform the function as contained in the proposed Rule. The proposed Rule should have a positive effect on the ability of the family or local government to perform the function of repairing their home as contained in the proposed Rule.

#### **Small Business Impact**

1. The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

2. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Poverty Statement**

1. The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the R.S. 49:973.

2. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

### Provider Impact Statement

The proposed Rule does not impact or affect a "Provider." "Provider" means an organization that provides services for individuals with developmental disabilities as defined in HCR 170 of the 2014 Regular Session of the Legislature. In particular, the proposed rules have no effect or impact on a "Provider" in regards to:

1. The staffing level requirements or qualifications required to provide the same level of service.
2. The cost to the provider to provide the same level of service.
3. The ability of the provider to provide the same level of service.

### Interested Persons

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than November 11, 2019 at 4:30 p.m. to Melinda L. Long, 7979 Independence Boulevard, Suite 307, Baton Rouge, LA 70806 or by Fax: (225)925-4624. A public hearing will be scheduled pursuant to R.S. 49:953(A)(1)(a) if needed.

Lt. Colonel Jason Starnes  
Deputy Superintendent/Chief Administrative Officer

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Manufactured Housing Repairs

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes are not anticipated to result in additional costs or savings for state or local governmental units. The proposed rule adopts standards for repairs made to manufactured homes that are built after July 15, 1976, and are no longer in compliance with the standards in which they were built, requiring that repairs shall be made in accordance with specified construction and safety standards as referenced.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated impact on revenue collections for state or local governments as a result of the proposed rules.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The adoption of the proposed rule is anticipated to impact directly affected persons or non-governmental groups. It is anticipated that owners of manufactured homes may realize an indeterminate increase in costs to repair their homes in accordance with the adopted standards. The cost cannot be quantified due to the type and/or number of repairs that need to be made. Electricians, plumbers and other professionals may realize economic benefits arising from changes to repair standards for manufactured homes.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is an anticipated positive effect on employment as a result of the proposed rule changes. Instead of making repairs themselves, owners of manufactured homes that need to be repaired may hire electricians, plumbers or other professionals to make the repairs.

Lt. Col. Jason Starnes  
Deputy Superintendent/CAO  
1909#063

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

### Department of Revenue Policy Services Division

### Election of Pass-Through Entities (LAC 61.I.1001)

Under the authority of Act 442 of the 2019 Regular Session of the Louisiana Legislature, which authorizes S corporations, and other pass-through entities, to elect to be taxed as C corporations for Louisiana income tax purposes in accordance with LA R.S. 47:287.732(B), 287.732.2, 293, 297.14, 1506, 1517, and 1675 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, gives notice that rulemaking procedures have been initiated to adopt LAC 61.I.1001 to provide procedure for making such election, the documents which must be submitted by an electing entity and the procedure for terminating the election.

### Title 61

### REVENUE AND TAXATION

### Part I. Taxes Collected and Administered by the Secretary of Revenue

### Chapter 10. Income: Pass-Through Entities

### §1001. Election of Pass-Through Entities

A. Act 442 of the 2019 Regular Session of the Louisiana Legislature, allows S corporations, and other entities taxed as partnerships for federal income tax purposes, to make an election to be taxed in the same manner as if the entity was required to file a tax return with the Internal Revenue Service as a C corporation.

1. The income of entities that make the election under LA R.S. 47:287.732.2 shall be taxed at the following rates:

- a. two percent upon the first \$25,000 of Louisiana taxable income;
- b. four percent upon the amount of Louisiana taxable income above \$25,000 but not in excess of \$100,000; and
- c. six percent upon the amount of Louisiana taxable income above \$100,000.

#### B. Requirements to Make the Election

1. Shareholders, members or partners holding more than one-half of the ownership interest in the entity based upon capital account balances on the day the election is made shall approve the election.

2. The entity shall provide the Department of Revenue at the time of making the election either:

- a. a resolution signed by secretary of the corporation or equivalent officer or manager verifying that more than one-half of the ownership interest in the entity based upon capital account balances approved the election, or
- b. other written proof that more than one-half the ownership interest in the entity approved the election.

3. An entity shall make the election on Form R-6980, *Tax Election for Pass-Through Entities* and the form shall be submitted to the Department of Revenue by email to Section732.2election@la.gov.

a. The following documentation shall be attached to Form R-6980:

i. a list of all owners, their addresses and their tax identification numbers as of the last day of the taxable year to which the election is effective;

ii. federal returns for the entity for the preceding three taxable years if applicable, including form K-1s and pass-through or disregarded entity forms such as Schedules C, E, and F;

iii. a copy of the federal S corporation election form, if applicable;

iv. formation documents of the entity such as the Articles of Incorporation, Partnership Agreement or Operating Agreement which specifically set forth how profits, losses and other tax items are distributed to the owners;

v. a list of all unused Louisiana net operating losses, tax credit balances and other tax items earned at the entity level prior to the election; and

vi. any audit reports issued by certified public accountants for the preceding three taxable years, if applicable.

4. Any entity who files a composite partnership return pursuant to LA R.S. 47:201.1 is prohibited from making the election.

5. Elections are timely if made: at any time during the preceding taxable year of the year in which the election is first effective; at any time during the taxable year in which the election is first effective or on or before the 15<sup>th</sup> day of the fourth month after the close of the taxable year in which the election is first effective.

a. The department will begin accepting elections on February 1, 2020 for taxable years beginning on or after January 1, 2019.

b. The secretary has the discretion to treat an election made after the 15<sup>th</sup> day of the fourth month after the close of the taxable year in which the election is first effective as timely if reasonable circumstances exist for the entity's failure to make a timely election.

i. The secretary shall consider whether to treat applications filed after the 15<sup>th</sup> day of the fourth month after the close of the taxable year as filed timely on a case-by-case basis.

ii. Reasonable circumstances may include, but are not limited to, death or serious illness of owners, death or serious illness of the entity's tax preparer, or federally declared natural disasters or emergencies.

iii. A determination that the entity and its owners will pay less total tax under the election shall not be a reasonable circumstance to consider a late election timely.

c. An election, once made, is effective for the entire taxable year for which it was made as well as all subsequent taxable years until the election is terminated.

#### C. Filing Tax Returns after Election

1. Each entity making the election shall file Louisiana Form CIFT-620, *Corporation Income Tax and Franchise Tax Return*, for the applicable taxable year for which the election was made and all taxable years thereafter unless the election is terminated.

2. Each entity making the election and filing the Louisiana Form CIFT-620 with all supporting documentation as required by the Department shall be required to file the return electronically in accordance with LAC 61:III.1505. Failure to comply with the electronic

filing requirement of this section will result in the assessment of a penalty as provided for in R.S. 47:1520(B).

3. The following documents shall be attached to the Louisiana Form CIFT-620 when filed:

a. A *pro forma* Federal Form 1120 completed as if the entity had filed as a C corporation for federal income tax purposes including all necessary federal schedules to compute the amount of federal tax that would have been due;

b. Schedule K-1s as actually issued to the owners of the entity for the taxable year as well as Form R-6981, *Statement of Owner's Share of Entity Level Tax Items*, reflecting any income that remains taxable to the entity's owners in Louisiana after the election such as dividends and interest; and

c. Form R-6982, *Schedule of Tax Paid if Paid by Owner*, calculating how much tax would have been due if the entity had passed the income through to its owners and the tax had been paid at the owner level.

4. Resident individual taxpayers with an ownership interest in an entity making this election shall make a modification on Schedule E of their Louisiana Form IT-540, *Louisiana Resident Income Tax Return*, in accordance with LA R.S. 47:297.14. A non-resident or part-year resident shall make the modification on the Nonresident and Part-Year Resident (NPR) Worksheet of the Louisiana Form IT-540B, *Louisiana Nonresident and Part-Year Resident Income Tax Return*.

a. The modification shall be made for all income or loss of the entity that was included by the individual owners in the calculation of federal adjusted gross income but which is being taxed at the entity level for Louisiana income tax purposes after the election is made.

b. The modification shall not be made for any income or loss that remains taxable for Louisiana individual income tax purposes to the entity's owners such as interest income and dividend income.

c. For calculation purposes, individual income taxpayers with an ownership interest in an entity making the election shall submit a *pro forma* Federal Form 1040 that excludes any income, deductions or other tax items that were included in the calculation of Louisiana net income on the entity's Louisiana Form CIFT-620.

#### 5. Net Operating Losses

a. Louisiana net operating losses recognized in taxable years prior to the election that have previously been passed through to the owners are tax items of the owners and any such losses are not available for utilization at the entity level in taxable years to which the election applies.

b. Louisiana net operating losses for any taxable year to which the election applies are tax items of the entity and any such losses shall not pass through to the owners of the entity regardless of whether or not the election is terminated in a future taxable year.

#### 6. Tax Credits Granted to Pass-Through Entities

a. Louisiana tax credits earned in taxable years prior to the election that have previously passed through to the owners are tax items of the owners and any such credits are not available for utilization at the entity level in taxable years to which the election applies.

b. Louisiana tax credits earned for any taxable years to which the election applies are tax items of the entity and

any such credits shall not pass through to the owners of the entity regardless of whether or not the election is terminated in a future taxable year.

D. Termination of the Election. Entities who make the election pursuant to LA R.S. 47:287.732.2, may apply to the secretary of the Department of Revenue to terminate the election. Any such termination request requires the written approval of more than one-half the of the ownership interest based upon capital account balances on the date the request is submitted.

1. The secretary may terminate the election if the entity shows a material change in circumstances.

a. A significant change in federal law may be considered a material change in circumstances.

b. A tax increase resulting from the decision to make the election, in and of itself, shall not be considered a material change in circumstances.

2. The entity shall request to terminate the election by submitting a private letter request to the Policy Services Division of the Department of Revenue in accordance with LAC 61:III.101.(C)(2)(a).

a. The entity must provide the Department either:

(i) A resolution signed by secretary of the corporation or equivalent officer or manager verifying that more than one-half the ownership interest in the entity based upon capital account balances approved the election, or

(ii) Other written proof that more than one-half the ownership interest in the entity based upon capital account balances approved the request for termination.

3. Once the entity has filed a Louisiana income tax return for a taxable year for which the election has been made or a subsequent taxable year, the secretary shall not grant a termination of the election to apply to such taxable year for which a return has already been filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47: 47:287.732(B), 287.732.2, 293, 297.14, 1511, and 1675.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR:45:

#### **Family Impact Statement**

The proposed adoption of this Rule should have no known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed rule has no known or foreseeable effect on:

1. the stability of the family.
2. the authority and rights of parents regarding the education and supervision of their children.
3. the functioning of the family.
4. family earnings and family budget.
5. the behavior and personal responsibility of children.
6. the ability of the family or a local government to perform this function.

#### **Poverty Statement**

The proposed Rule has no known impact on poverty as described in R.S. 49:973.

#### **Small Business Analysis**

The proposed Rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

#### **Provider Impact Statement**

The proposed Rule has no known or foreseeable effect on:

1. the staffing levels requirements or qualifications required to provide the same level of service.

2. the total direct and indirect effect on the cost to the provider to provide the same level of service.

3. The overall effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

All interested persons may submit written data, views, arguments or comments regarding this proposed rule to Danielle B. Clapinski, Attorney, Policy Services Division, Office of Legal Affairs, P.O. Box 44098, Baton Rouge, LA 70804-4098. All written comments must be received no later than 4:30 p.m. on November 25, 2019.

#### **Public Hearing**

A public hearing will be held on November 26, 2019 at 10 a.m. in the LaBelle Room, located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Kimberly Lewis Robinson  
Secretary

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Election of Pass-Through Entities**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The purpose of the proposed Rule is to implement the provisions of Act 442 of the 2019 Session of the Louisiana Legislature. The Act and this proposed Rule, allows S corporations, and other entities taxed as partnerships for federal income tax purposes, to make an election to be taxed in the same manner as if the entity was required to file a tax return with the Internal Revenue Service as a C corporation, thereby paying the state income tax at the entity level as opposed to the shareholder/partner level. The entity will be allowed a federal income tax deduction equal to the federal income tax they would have paid on their Louisiana net income if they filed a C-Corp return at the federal level. The state tax rates these entities will be subject to are set at the individual income tax rates for married filing jointly: 2 percent on the first \$25,000, 4 percent on the next \$75,000, and 6 percent on income above \$100,000. Minor implementation costs to the Department of Revenue (LDR) are for computer system development and modification, tax form redesign, testing and taxpayer inquiries. Additional costs will be incurred to update equipment and software to process the revised return in FY 2019-2020. These costs are being absorbed in the LDR's budget allocation.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The impact on state revenue collections is indeterminable. LDR does not have the information necessary to estimate the impact. There are possible individual scenarios where overall state tax receipts will decrease and possible scenarios where overall state tax receipts will increase. Each situation is dependent on an individual's tax situation and the entity actually making the election, which cannot be predicted.

Entities/shareholders may seek to minimize the combined state and federal tax burden, and the predominate situation may be an increase in state taxes while federal taxes are decreased by a greater amount (federal rates are considerably higher than state rates). The effect on aggregate state tax receipts is uncertain.

This proposal should have no impact on the revenue collections of local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

Affected persons are pass-through entities and their owners that make the election under this Rule. The overall state income tax liability to affected persons would be increased or decreased by an indeterminable amount. Additional paperwork will be required by the affected persons. However, the paperwork costs are not expected to be material.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is anticipated by this proposed Rule.

Kimberly Lewis Robinson  
Secretary  
1910#033

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Revenue Sales and Use Tax Commission for Remote Sellers

##### Mandatory Electronic Filing of Remote Sellers Tax Returns and Payment of Related Sales and Use Tax (LAC 61.III.1537 and 1538)

Under the authority of R.S. 47:1519, 47:1520, and 47:340, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., The Louisiana Sales and Use Tax Commission For Remote Sellers, gives notice that rulemaking procedures have been initiated to adopt LAC 61.III.1537 and 1538 to provide mandatory electronic filing and payment requirements for the remote sellers tax return.

R.S. 47:340(F) gives the Louisiana Sales and Use Tax Commission the same collection powers enjoyed by the Secretary of the Department of Revenue under chapter 18, subtitle II of Title 47; which includes those provided by R.S. 47:1519(B)(1) and R.S. 47:1520(A)(2). The purpose of this regulation is to mandate electronic filing of all remote seller tax returns and electronic payment of all related sales and use tax.

### Title 61

### REVENUE AND TAXATION

#### Part III. Administrative and Miscellaneous Provisions

#### Chapter 15. Mandatory Electronic Filing of Tax Returns and Payment

##### §1537. Remote Seller Tax Return – Electronic Filing Requirements

A. For tax periods beginning on or after July 1, 2020, every remote seller shall be required to file the remote sellers tax return electronically with the Louisiana Sales and Use Tax Commission for Remote Sellers (the “commission”) using the electronic format prescribed by the commission.

B. Remote sellers may not send paper versions of any returns required to be filed.

C.1. R.S. 47:340(F) allows the commission to use the administrative provisions found in chapter 18 of subtitle II of the revised statutes in the same manner as the Secretary of the Department of Revenue. Therefore, failure to comply with the electronic filing requirement of this section will result in the assessment of a penalty as provided for in R.S. 47:1520(B).

2. Waiver of the penalty provided for in paragraph 1 of this subsection shall only be allowed as provided for in R.S. 47:1520(B) per authority granted to the commission in R.S. 47:340(F).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:1520 and 47:340.

**HISTORICAL NOTE:** Promulgated by the Department of Revenue, Sales and Use Tax Commission for Remote Sellers, LR 45:

##### §1538. Remote Seller Derived Sales and Use Tax - Electronic Payment Required

A. Effective for all taxable periods beginning on or after July 1, 2020, all payments by any remote seller shall be electronically transferred to the commission on or before the twentieth day following the close of the reporting period using the electronic format provided by the commission.

B. Failure to comply with the electronic funds transfer requirements shall result in the tax payment being considered delinquent and subject to penalties and interest as provided in applicable state law and local ordinances.

C. If a remote seller has made a good faith attempt and exercises due diligence in initiating a payment according to this rule, but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not timely received, the delinquent penalty may be waived by the commission. Before a waiver will be considered, remote sellers must furnish the commission with documentation proving that due diligence was exercised and that the delay was clearly beyond their control.

D. In any case where the remote seller can prove payment by electronic funds transfer would create an undue hardship, the commission shall exempt the remote seller from the requirement to transmit funds electronically.

E. The tax returns must be filed electronically, separately from the electronic transmission of the remittance.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:1519 and 47:340.

**HISTORICAL NOTE:** Promulgated by the Department of Revenue, Sales and Use Tax Commission for Remote Sellers, LR 45:

### Family Impact Statement

The proposed adoption of this Rule should have no known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, the implementation of this proposed Rule has no known or foreseeable effect on:

1. The stability of the family.
2. The authority and rights of parents regarding the education and supervision of their children.
3. The functioning of the family.
4. Family earnings and family budget.
5. The behavior and personal responsibility of children.
6. The ability of the family or a local government to perform this function.

### Poverty Impact Statement

The proposed Rule has no known impact on poverty as described in R.S. 49:973.

### Small Business Impact Statement

The proposed Rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

### Provider Impact Statement

The proposed Rule has no known or foreseeable effect on the provider. Specifically;



1. This Rule will not affect the staffing levels, requirements or qualifications required to provide the same level of service.

2. This Rule will not affect the total direct and indirect costs to the provider to provide the same level of service.

3. This Rule will not affect the overall ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written data, views, arguments, or comments regarding this proposed Rule to Stacey Greaud, Attorney, Department of Revenue, Office of Legal Affairs, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098. Written comments must be received no later than 4:30 p.m. on Monday, November 25, 2019.

#### **Public Hearing**

A public hearing will be held on Tuesday, November 26, 2019 at 1:30 p.m. in the LaBelle Room on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Jeanine P. Theriot  
Chairman

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Mandatory Electronic Filing of Remote Sellers Tax Returns and Payment of Related Sales and Use Tax**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

Louisiana Revised Statute 47:340 provides remote sellers, those delivering goods and services into Louisiana but lacking physical presence in the state, will be mandated to collect and remit sales and use tax following July 1, 2020. The purpose of this rule is to require every remote seller to electronically file the remote sellers tax return with the Louisiana Sales and Use Tax Commission for Remote Sellers ("commission") using the electronic format prescribed by the commission, for all taxable periods beginning on or after July 1, 2020.

This proposal requires every remote seller to transfer all payments, for all taxable periods beginning on or after July 1, 2020, to the commission on or before the twentieth day following the close of the reporting period using the electronic format provided by the commission. This proposal also provides for the assessment and waiver of penalties for non-compliance.

Implementation of this proposal will not result in material additional costs or cost savings to governmental units. With the passage of R.S. 47:340, the commission would be implementing a new tax return for electronic filing with or without this proposal.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This proposal may increase revenues from penalties by an indeterminable amount. A slight and temporary increase in revenue from penalties is possible as the proposed rule is implemented, although the commission cannot predict non-compliant behavior.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The commission does not have the information necessary to determine the additional costs to comply with this change, but

these costs are expected to be minimal. To the extent non-compliance penalties are collected, affected taxpayers will incur penalty costs. The commission cannot estimate the additional penalty amount.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No effect on competition or employment is anticipated by this proposal.

Jeanine P. Theriot  
Chairman  
1910#041

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Revenue Sales and Use Tax Commission for Remote Sellers**

Policy Statements and Guidance  
(LAC 61:III.2901 and 2903)

Under the authority of and in accordance with R.S. 47:340(F) and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Sales and Use Tax Commission for Remote Sellers, ("the commission") through this Notice of Intent, proposes to adopt rules to provide general definitions as well as to define the types of policy statements and guidance to communicate the commission's position and to ensure the correct, consistent and fair enforcement of tax laws.

#### **Title 61**

#### **REVENUE AND TAXATION**

#### **Part III. Administrative and Miscellaneous Provisions Chapter 29. Louisiana Sales and Use Tax Commission for Remote Sellers**

#### **§2901. Definitions**

A. The terms not otherwise defined in this Chapter shall be defined as provided in R.S. 47:301(4)(m) and R.S. 47:339 unless another definition is specifically modified.

B. In this chapter, the following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

*Commission*—the Louisiana Sales and Use Tax Commission for Remote Sellers.

*Local Taxing Authority*—those parishes, municipalities, special tax districts, political subdivisions, parish governing bodies, and school boards, who are authorized under the provisions of the Constitution of Louisiana, the Louisiana Revised Statutes of 1950 and jurisprudence to levy and collect local sales and use taxes.

*Remote Sales*—sales, delivered into Louisiana, made by a remote seller.

*Remote Seller(s)*—a seller who sells for sale at retail, use, consumption, distribution, or for storage to be used for consumption or distribution any taxable tangible personal property, products transferred electronically, or services for delivery within Louisiana but who lacks physical presence in Louisiana, and is not considered a dealer as defined by R.S. 47:301(4)(a) through (l).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 47:340(F).

**HISTORICAL NOTE:** Promulgated by the Department of Revenue, Sales and Use Tax Commission for Remote Sellers, LR 45:

## §2903. Commission Policy Statements and Guidance

### A. Purpose

1. This rule defines the types of policy statements that may be issued and the procedures for issuing them. Policy statements provide guidance to communicate the commission's position and ensure the correct, consistent and fair enforcement of tax laws.

2. The commission will issue the following policy statements:

a. rules adopted according to the Administrative Procedure Act;

b. policy and procedure memoranda;

c. declaratory rulings:

i. private letter rulings;

ii. commission rulings; and

iii. statements of acquiescence or nonacquiescence;

d. commission information bulletins; and

e. informal advice.

3. All policy statements or guidance issued by the commission are binding regarding only the state and local taxes collected by the commission.

### B. Distinguishing Rules from Other Policy Statements

1. Rules are adopted in accordance with Louisiana's Administrative Procedure Act (APA), R.S. 49:950 et seq., and the APA is the authoritative guide as to when a rule is required.

2. The APA excepts agency statements, guides, or requirements for conduct or action that regulate the internal management of the agency from the definition of a Rule [R.S. 49:951(6)]. Policy and Procedure Memoranda are issued under this exception.

3. The APA also provides that "The fact that a statement of policy or an interpretation of a statute is made in the decision of a case or in an agency decision upon or disposition of a particular matter as applied to a specific set of facts involved does not render the same a rule within this definition or constitute specific adoption thereof by the agency so as to be required to be issued and filed as provided in this Subsection" [R.S. 49:951(7)]. The term Rule "does not include declaratory rulings or orders." [R.S. 49:951(6)]. Declaratory Rulings are issued under these exceptions.

4. General information may be disseminated and general assistance provided, but remote sellers are only bound by statutes and regulations that have the force and effect of law. Commission information bulletins and informal advice offered to remote sellers do not establish legal requirements.

5. Within the parameters set forth by the APA, Title 47, and other applicable laws, discretion may be used to determine if policy guidance is needed and the type of policy guidance to be issued.

6. Reasons for issuing a rule may include:

a. the law or current rules are not clear and the issue affects many people;

b. there is inconsistency in the treatment of a tax issue among remote sellers;

c. the procedures a remote seller should follow to comply with the law are undefined, unclear, or inconsistently followed;

d. a request for a private letter ruling from one remote seller concerns an issue that may affect many;

e. a request for policy guidance from employees concerns an issue that may affect many remote sellers; or

f. issuance of a rule will assist the public in meeting its legal obligations in an effective and efficient manner.

7. Reasons for not issuing a rule may include:

a. the matter affects only one remote seller;

b. the law is clear;

c. a statutory change is more desirable; or

d. the matter may best be handled by another means.

### C. Declaratory Rulings

1. Declaratory Rulings are statements pertaining to a specific set of facts to provide guidance for commission employees and remote sellers. Declaratory Rulings, policy and procedure memoranda, commission information bulletins, and informal advice are not agency or commission rules and are not binding on the public.

2. The following types of declaratory rulings will be issued with a uniform format and numbering system. Each declaratory ruling will indicate the date the ruling was issued, a summary title of what the ruling addresses (subject heading), whether it replaces, modifies, or supersedes a previous policy statement, applicable references and authority, a statement of scope, and other pertinent information.

#### a. Private Letter Rulings

i. Private letter rulings (PLR) provide guidance to a specific remote seller at the remote seller's request. It is a written statement issued to apply principles of law to a specific set of facts or a particular tax situation. A PLR does not have the force and effect of law.

ii. A PLR is not binding on the person who requested it or on any other remote seller. It is binding on the commission only as to that remote seller and only if the facts provided were truthful and complete and the transaction was carried out as proposed. It continues as authority for the commission's position unless a subsequent declaratory ruling, rule, court case, or statute supersedes it.

iii. Requests for PLR are submitted to the commission by an identified remote seller, or the remote seller's representative who has a power of attorney. Requests must contain the following information:

(a). name, address, and telephone number of person requesting the advisory opinion;

(b). a power of attorney, if the remote seller is represented by a third party;

(c). specific questions to be answered or issues to be addressed;

(d). complete statement of all relevant facts;

(e). citations to or copies of relevant statutes, regulations, court decisions, advisory opinions, or other authority that appear to support the remote seller's position;

(f). copies of relevant documents such as account statements, workpapers, reports, invoices, etc.; and

(g). a statement attesting:

(i). whether the remote seller requesting the opinion has the same issue under audit or appeal with the commission or any other taxing or revenue authority;

(ii). if the remote seller requesting the opinion has been notified that an examination or audit is pending;

(iii). if the remote seller requesting the opinion is litigating the issue;

(iv). if the commission, or any other taxing or revenue authority, has previously issued an advisory opinion on the same issue (with copy attached); and

(v). if the Attorney General's Office has been, or will be, requested to issue an opinion concerning the issue; and

(vi). that, prior to the issuance of a PLR, if the requesting remote seller is notified of a pending examination or audit by the commission or other taxing or revenue authority, they will notify the commission of the pending examination.

iv. PLRs may be published but only after all remote seller identifying information has been removed and measures are taken to protect taxpayer confidentiality.

v. A PLR request may not be used to delay or interrupt an audit.

vi. Reasons for issuing a private letter ruling may include:

(a). it has been requested by an identified remote seller, or the remote seller's representative who has a power of attorney; and

(b). the law and regulations are not clear.

vii. Reasons for not issuing a private letter ruling may include:

(a). the law and regulations are clear;

(b). a rule would be more appropriate under the APA;

(c). the inquiry concerns alternative treatments or purely hypothetical situations;

(d). the inquiry concerns matters scheduled for audit or in audit, appeal, or litigation;

(e). the inquiry concerns an issue that is being litigated or may be litigated in the near future;

(f). the request is incomplete because it does not contain all of the information required by §2903.C.2.a.iii;

(g). the request can best be handled by another means; or

(h). the requesting remote seller withdraws the request at any point prior to issuance of the PLR.

#### b. Commission Rulings

i. A commission ruling provides guidance to the public and employees.

(a). It is a written statement issued to apply principles of law to a specific set of facts.

(b). A commission ruling does not have the force and effect of law and is not binding on the public. It is a statement of the commission's position and is binding on the commission until superseded or modified by a subsequent change in statute, regulation, declaratory ruling, or court decision.

(c). A commission ruling is requested by commission members or employees, who provide a complete factual and legal background similar to that required of remote sellers requesting a private letter ruling.

(d). A commission ruling request cannot be used to delay or interrupt an audit.

ii. Temporary commission rulings may be issued when necessary due to time constraints or emerging issues.

(a). Temporary commission rulings must clearly state their lack of finality and once a final commission ruling is issued, the temporary commission ruling is superseded.

(b). If the final commission ruling reaches a different conclusion than the temporary commission ruling, the commission will honor whichever ruling is more favorable to the remote seller, but only for those transactions that occurred after the temporary commission ruling was issued and before the final commission ruling.

iii. Reasons for issuing a commission ruling may include:

(a). to provide an official interpretation of rules, regulations, statutes, court cases, Board of Tax Appeals decisions, or any other sources of law as to a specific set of facts;

(b). to serve as guidance to remote sellers, tax practitioners, and employees if the law or regulations are not clear as to a specific set of facts.

iv. Reasons for not issuing a commission ruling may include:

(a). the law and regulations are clear;

(b). a rule would be more appropriate under the APA;

(c). the inquiry concerns an issue that is being litigated or may be litigated in the near future;

(d). the facts contain information that could identify a remote seller and the remote seller has not consented to publication of the commission ruling or there are other confidentiality concerns; and

(e). the request can best be handled by another means.

#### c. Statements of Acquiescence or Nonacquiescence

i. A statement of acquiescence or nonacquiescence (SA/SNA) is intended to provide guidance to the public and to employees.

ii. A SA/SNA is a written statement issued to announce the commission's acceptance or rejection of specific unfavorable court or administrative decisions. If a decision covers several disputed issues, a SA/SNA may apply to just one of them, or more, as specified.

iii. A SA/SNA is not binding on the public, but is binding on the commission unless superseded by a later SA/SNA, declaratory ruling, rule, statute, or court case.

iv. If the commission acquiesces, these guidelines will be followed.

(a). In cases that are substantially the same as the facts, the same result will be reached by commission officials and may be relied on by employees and remote sellers. Remote sellers must be careful to apply acquiescence to the same or substantially the same facts. Acquiescence does not mean agreement with the court's reasoning; simply that the commission will abide by it.

(b). The commission may acquiesce in the result only, which only concedes the litigation with that particular remote seller. The issue may still be pursued with other remote sellers. This indicates that the commission will likely seek out another opportunity to litigate the issue with the hope of having the issue addressed by an authoritative court.

(c). The commission may consider any of the following factors in deciding whether to issue a statement of acquiescence or nonacquiescence:

(i). whether the issue in the court or administrative decision affects many remote sellers;

(ii). whether the issue is one of fact or law, or a mixed question;

(iii). whether the decision is binding statewide with no statement needed;

(iv). whether other cases on the same or a similar issue are pending;

(v). whether cases in other jurisdictions have been decided, and in whose favor;

(vi). the cost of litigation as it relates to that issue, as well as overall;

(vii). the clarity of the applicable statutes and regulations on the disputed issue;

(viii). the soundness of the reasoning of the decision; or

(ix). the likelihood of success if the commission relitigates the issue.

#### D. Other Types of Policy Guidance

##### 1. Policy and Procedure Memorandum

a. A Policy and Procedure Memorandum (PPM) is an internal document providing internal administrative or management guidance to employees. A PPM does not have the force and effect of law and is not binding on the public. It does not focus on remote sellers' substantive or procedural rights or obligations. It is binding on employees.

b. A PPM may be issued for any of the following reasons:

i. to notify employees of internal policies that apply only to employees and do not apply to remote sellers;

ii. to notify employees of internal procedures and instructions that do not apply to remote sellers; or

iii. to inform employees of internal programs that affect only employees.

c. A PPM may not be the appropriate policy statement if:

i. a remote seller's substantive or procedural rights or obligations would be affected; or

ii. a rule would be more appropriate under the APA.

##### 2. Commission Information Bulletin

a. A commission information bulletin (CIB) is an informal statement of information issued for the public and employees that is general in nature. A CIB does not have the force and effect of law and is not binding on the public or the commission. CIBs will be established in a standard format and issued in sequence.

b. A CIB announces general information useful in complying with the laws administered by the commission and may be issued under any circumstance deemed necessary by the commission including:

i. to inform the public and employees that a statute or regulation has been added, amended, or rescinded;

ii. to inform the public and employees that a case has been decided;

iii. to publish information to employees and the public that is based on data supplied by other agencies, such as comparative tax collections by parish;

iv. to publish information such as deadlines;

v. to inform the public of services offered by the commission, such as office hours, website features, and like information; or

vi. to revise a previous CIB or other similar publication.

##### 3. Informal Advice

a. In addition to rules, declaratory rulings, policy and procedure memoranda, and commission information bulletins, remote sellers and employees may still seek advice on tax questions. To assist customers, the commission will provide informal advice. Informal advice does not have the force and effect of law and is not binding on the commission, the public, or the person who asked for the advice. Informal advice will have no effect on an audit.

b. Any of the following types of informal advice may be provided.

i. Informal Oral Advice. There is no formal procedure for requesting informal oral advice. Employees will answer questions by telephone or in person as requested, within resource and appropriateness constraints. Advice given at audit meetings, protest conferences, and the like is considered informal oral advice.

ii. Informal E-Mail Advice. Has the same status as informal oral advice.

iii. Informal Written Advice. Requests for informal written advice should be in writing. Informal written advice is not a declaratory ruling.

iv. Newsletters, Pamphlets, and Informational Publications. The commission may publish informational newsletters, pamphlets, and publications at regular intervals. Statements contained in these publications do not have the force and effect of law and they are not binding on the public or the commission. They are merely helpful tools for disseminating information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:340(F).

HISTORICAL NOTE: Promulgated by the Department of Revenue, Sales and Use Tax Commission for Remote Sellers, LR 45:

#### Family Impact Statement

This Family Impact Statement is provided as required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature.

1. Implementation of this proposed Rule will have no effect on the stability of the family.

2. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

5. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

#### Poverty Impact Statement

The proposed Rule will have no known impact on poverty as described in R.S. 49:973.

#### Small Business Impact Statement

The proposed Rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

### Provider Impact Statement

The proposed Rule has no known or foreseeable effect on the provider. Specifically;

1. This Rule will not affect the staffing levels, requirements or qualifications required to provide the same level of service.

2. This Rule will not affect the total direct and indirect costs to the provider to provide the same level of service.

3. This Rule will not affect the overall ability of the provider to provide the same level of service.

### Public Comments

Interested persons may submit written data, views, arguments, or comments regarding this proposed rule to Stacey Greaud, Attorney, Department of Revenue, Office of Legal Affairs, Policy Services Division, P.O. Box 44098, Baton Rouge, LA 70804-4098. Written comments must be received no later than 4:30 p.m. on Monday, November 25, 2019.

### Public Hearing

A public hearing will be held on Tuesday, November 26, 2019 at 1:30 p.m. in the LaBelle Room on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Jeanine P. Theriot  
Chairman

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Policy Statements and Guidance

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The purpose of this rule is to provide general definitions as well as to define the types of policy statements and guidance for use by the Louisiana Sales and Use Tax Commission for Remote Sellers ("commission") to communicate the commission's position and to ensure the correct, consistent and fair enforcement of tax laws.

Implementation of this proposed regulation will not result in material additional costs or cost savings to governmental units.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated direct material effect on state or local revenues as a result of this measure.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will not result in any cost to directly affected persons or non-governmental groups. However, they should benefit from improved accessibility to pertinent tax information and guidance.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition or employment is anticipated by this proposal.

Jeanine P. Theriot  
Chairman  
1910#040

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Transportation and Development Professional Engineering and Land Surveying Board

Practice of Engineering and Supervising Professionals  
(LAC 46:LXI.105 and 2305)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Professional Engineering and Land Surveying Board has initiated procedures to amend its rules contained in LAC 46:LXI.105 and 2305.

This is a technical revision of existing rules under which LAPELS operates. The revision clarifies (a) the circumstances under which an architect can perform minor mechanical, electrical or civil-structural engineering work necessarily incidental to his/her practice of architecture and (b) the amount of time that certain licensed professionals must work for (and/or the amount of ownership interest that certain licensed professionals must have in) a licensed firm to be able to serve as the firm's supervising professional.

### Title 46

## PROFESSIONAL AND OCCUPATIONAL STANDARDS

### Part LXI. Professional Engineers and Land Surveyors

#### Chapter 1. General Provisions

#### §105. Definitions

A. The words and phrases defined in R.S. 37:682 shall apply to these rules. In addition, the following words and phrases shall have the following meanings, unless the content of the rules clearly states otherwise.

\* \* \*

#### *Practice of Engineering—*

a. practice of engineering is defined in R.S. 37:682. The board recognizes in the design of buildings and similar structures that there is overlap between the work of architects and professional engineers. It is recognized that an architect who has complied with all of the current laws of Louisiana relating to the practice of architecture has a right to engage in some activities properly classifiable as the practice of engineering insofar as it is necessarily incidental to his/her work as an architect. Likewise, it is recognized that the professional engineer who has complied with all of the current laws of Louisiana and is properly licensed has the right to engage in some activities properly classifiable as architecture insofar as it is necessarily incidental to his/her work as a professional engineer. Furthermore, the architect or the professional engineer, as the case may be, shall assume all responsibility for compliance with all the laws or ordinances relating to the designs or projects in which he/she may be engaged.

b.i. an architect may perform minor mechanical, electrical or civil-structural engineering work necessarily incidental to his/her practice of architecture, but such incidental engineering work shall not include a complete engineering system unless such complete engineering

system does not exceed the area thresholds under the occupancy types listed in clause v below. The incidental engineering work shall be of a secondary nature and shall be substantially less in scope and magnitude when compared to the architectural portion of the work. Incidental engineering work includes renovations or alterations of any size building that do not require significant adjustments to the engineering calculations for the changes to the engineering system(s) or component(s). The incidental work must be safely and competently performed by the architect without jeopardizing the life, health, property and welfare of the public. The incidental engineering work must also satisfy all of the following conditions in new or renovated projects:

(a). the total occupant load must not exceed 49 individuals. The occupant load is defined and determined by the method set forth in the currently enforced building code;

(b). the construction value of the incidental engineering work must not exceed 15 percent of the total construction value for new construction;

(c). any addition to a building or structure must not cause the gross floor areas of the entire building or structure to exceed those listed in clause v below;

(d). any renovations or alterations must not cause the overall construction cost to exceed \$125,000, exclusive of building finishes and furnishings; and

(e). any incidental engineering work must not exceed the area thresholds under the following occupancy types:

- (i). storage—6,250 sq. ft.;
- (ii). factory and industrial—5,000 sq. ft.;
- (iii). mercantile—4,000 sq. ft.;
- (iv). residential (excluding single family)—4,000 sq. ft.;
- (v). educational—2,500 sq. ft.;
- (vi). institutional—2,500 sq. ft.;
- (vii). high hazard—1,500 sq. ft.;
- (viii). assembly—2,650 sq. ft.;
- (ix). business—4,000 sq. ft.;
- (x). utility and maintenance—5,000 sq. ft.

ii. Professional judgment should be exercised in determining the need for an architect or professional engineer on complex projects that do not exceed these area thresholds.

c. teaching of engineering design and the responsible charge of the teaching of engineering design shall be considered as the practice of engineering. An accredited engineering curriculum ensures the minimum quality requirements for the teaching of engineering design. Thus, the teaching of engineering design courses and the responsible charge of the teaching of engineering design courses must be conducted by professional engineers or by engineering faculty in an accredited engineering curriculum. These unlicensed engineering faculty members are exempt from licensure by the board only for the purpose of teaching of engineering design courses and the responsible charge of the teaching of engineering design courses in an accredited engineering curriculum and shall not otherwise practice or offer to practice engineering in the state of Louisiana as defined by R.S. 37:682 without being licensed by the board.

\* \* \*

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:688.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Surveyors, LR 4:298 (August 1978), amended LR 5:110 (May 1979), LR 7:643 (December 1981), LR 14:449 (July 1988), LR 16:772 (September 1990), LR 17:804 (August 1991), LR 20:901 (August 1994), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1020 (July 2001), LR 30:1704 (August 2004), LR 32:1618 (September 2006), LR 35:1908 (September 2009), LR 38:835 (March 2012), repromulgated LR 38:1030 (April 2012), amended LR 44:612 (March 2018), LR 45:75 (January 2019), LR 45:

## **Chapter 23. Firms**

### **§2305. Supervising Professional**

A.1. Each firm licensed with the board shall designate one or more supervising professionals. Each supervising professional shall be a licensed professional:

a. whose primary employment is with the firm, provided the supervising professional works for the firm for a 12-month average of at least 30 hours per week or 130 hours per month; or

b. whose employment is with the firm, provided the supervising professional has at least a 25 percent ownership interest in the firm.

A.2. - E. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:689.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:115 (May 1979), amended LR 8:191 (April 1982), LR 10:343 (April 1984), LR 11:362 (April 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1036 (July 2001), LR 30:1719 (August 2004), LR 33:2789 (December 2007), LR 35:2856 (December 2009), LR 38:1418 (June 2012), LR 44:623 (March 2018), LR 45:

### **Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known impact on family formation, stability or autonomy.

### **Poverty Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(ix) and 973, the following Poverty Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known impact on child, individual or family poverty in relation to individual or community asset development.

### **Provider Impact Statement**

In accordance with HCR No. 170 of the 2014 Regular Session, the following Provider Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known effect on the staffing level requirements or qualifications required to provide the same level of service, the cost to the provider to provide the same level of service or the ability of the provider to provide the same level of service.

### **Public Comments**

Interested parties are invited to submit written comments on the proposed Rule through November 11, 2019 at 4:30

p.m., to Donna D. Sentell, Executive Director, Louisiana Professional Engineering and Land Surveying Board, 9643 Brookline Avenue, Suite 121, Baton Rouge, LA 70809-1433.

Donna D. Sentell  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Practice of Engineering  
and Supervising Professionals**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There are no estimated implementation costs or savings to state or local governmental units resulting from this proposed rule change. The proposed rule change revises existing rules under which LAPELS operates to provide further clarity on (a) the circumstances under which an architect can perform minor mechanical, electrical or civil-structural engineering work incidental to his/her practice of architecture and (b) the amount of time that certain licensed professionals must work for (and/or the amount of ownership interest that certain licensed professionals must have in) a licensed firm to be able to serve as the firm's supervising professional.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local governmental units as a result of this proposed rule change.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

The proposed rule change will have no impact on costs and/or economic benefits to directly affected persons or nongovernmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

There is no estimated impact on competition and employment in the public and private sectors as a result of the proposed rule change.

Donna D. Sentell  
Executive Director  
1909#035

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of the Treasury  
Board of Trustees of the Louisiana State  
Employees' Retirement System**

Emergency Refund, Transferring Credit,  
Survivor's Benefits, and Disability Applications  
(LAC 58:I.1301, 1503, 1901-1909, 2501 and 2503)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System ("LASERS") proposes amendment in part and repeal in part of provisions contained in Chapters 13, 15, 19 and 25 of Part I of LAC Title 58. Sections 1901, 1903, 1905, 1907, 1909, 2501 and 2503 are recommended for repeal in their entirety because they are redundant and simply repeat provisions found in statutory law. In addition, the proposed rule changes remove an outdated prohibition in §1503 forbidding DROP participants from transferring credit and add a

provision in §1301 to allow review, on a case-by-case basis, to persons seeking an emergency refund who have received a notice of repossession of their vehicle. The proposed rule changes comply with and are enabled by R.S. 11:515. The intent is to put the rule changes into place on January 20, 2020.

**Title 58**

**RETIREMENT**

**Part I. Louisiana State Employees' Retirement System**

**Chapter 13. Emergency Refunds**

**§1301. Conditions Giving Rise to an Emergency Refund**

A. - A.2. ...

3. an emergency situation of the member, which shall consist of the foreclosure on a member's domicile, repossession of the member's vehicle, or eviction of the member from his or her apartment. A document filed in the official legal proceeding for foreclosure or repossession or a notice of eviction shall be required as proof to qualify under this provision. Notices of repossession drafted in compliance with R.S. 6:966 may be reviewed by staff on a case-by-case basis.

B. - C. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 11:515 and R.S. 11:537(B).

**HISTORICAL NOTE:** Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:1710 (December 1997), LR 31:107 (January 2005), LR 32:1466 (August 2006), amended LR 46:

**Chapter 15. Purchases and Transfers of Service**

**§1503. Transfers of Service; Other Requirements**

A. - A.1. ...

2. an active member of a public retirement system maintained primarily for officers and employees of the state of Louisiana, or any political subdivision thereof, or of any district, board, commission, or other agency of either, or any other such public entity who has been a member of such system for at least six months and who has membership credit in such system shall have the option of transferring all of his credit from such system he is currently contributing to or to the system in which he last contributed. However, membership in a public retirement system cannot be changed to another public retirement system.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 11:143 and R.S. 11:515.

**HISTORICAL NOTE:** Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 46:

**Chapter 19. Survivors' Benefits**

**§1901. Application for Benefits**

Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 11:471 and R.S. 11:515.

**HISTORICAL NOTE:** Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), repealed LR 46:

**§1903. Qualified Survivors**

Repealed

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 11:472, R.S. 11:473, R.S. 11:474, R.S. 11:475, R.S. 11:480 and R.S. 11:515.

**HISTORICAL NOTE:** Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), repealed LR 46:

### **§1905. Proof of Entitlement to a Survivors' Benefit**

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:477 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Louisiana State Employees' Retirement System, LR 22:373 (May 1996), repealed LR 46:

### **§1907. Qualification for Benefit to Handicapped Children**

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), repealed LR 46:

### **§1909. Children of Previous Marriage**

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:475 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), repealed LR 46:

## **Chapter 25. Procedures for Processing Disability Applications**

### **§2501. Application for Disability Retirement**

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1957 (October 1998), LR 27:1580 (September 2001), repealed LR 46:

### **§2503. Disability Board Physician's Recommendation**

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1958 (October 1998), LR 27:1580 (September 2001), repealed LR 46:

### **Family Impact Statement**

The proposed Rule repeal is not anticipated to have an impact on family formation, stability, or autonomy as described in R.S. 49:972.

### **Poverty Impact Statement**

The proposed Rule repeal is not anticipated to have an impact on poverty as described in R.S. 49:973.

### **Small Business Analysis**

The proposed Rule repeal is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

### **Provider Impact Statement**

The proposed Rule repeal is not anticipated to have an impact on providers of services funded by the state as described in R.S. 49:965.6.

### **Public Comments**

Interested persons may submit written comments on the proposed changes until 4:30 p.m., November 25, 2019 to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement System, P.O. Box 44213, Baton Rouge, LA 70804. No rule preamble has been prepared.

Maris E. Leblanc  
Deputy Director

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Emergency Refund, Transferring Credit, Survivor's Benefits, and Disability Applications**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule changes will not result in any costs or savings to state or local governmental units.

The proposed rule change repeals the following sections in their entirety: Chapter 19 - Section 1901 Application for Benefits, Section 1903 Qualified Survivors, Section 1905 Proof of Entitlement to a Survivors' Benefit, Section 1907 Qualification for Benefit to Handicapped Children, 1909 Children of Previous Marriage, Chapter 25 - Section 2501 Application for Disability Retirement and Section 2503 Disability Board Physician's Recommendation. These sections are being repealed because La. R.S. 11:471 et seq. governing survivor benefits and La. R.S. 11:218 and 219 governing disability retirement applications cover the same subject matters and remain in effect.

In addition, the proposed rule changes remove a prohibition in Section 1503 forbidding DROP participants from transferring credit to reflect the current practice of the system. The proposed rule change also adds clarifying language in Section 1301 related to the review process for persons seeking an emergency refund who have received a notice of repossession of their vehicle.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation of the proposed changes will have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will not impact costs and/or economic benefits to directly affected persons or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule has no known effect on competition and employment.

Maris E. LeBlanc  
Deputy Director  
1910#027

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## **NOTICE OF INTENT**

### **Department of Wildlife and Fisheries Office of Wildlife**

#### **Threatened and Endangered Species (LAC 76:I.317)**

The Department of Wildlife and Fisheries, Office of Wildlife does hereby give notice of its intent to update the list of Threatened and Endangered Species in Louisiana by adding Louisiana Pinesnake as Threatened species.

### **Title 76**

## **WILDLIFE AND FISHERIES**

### **Part I. Wildlife and Fisheries Commission and Agencies Thereunder**

#### **Chapter 3. Special Powers and Duties Subchapter E. Louisiana Natural Heritage**

#### **§317. Threatened and Endangered Species**

A. The secretary of the Department of Wildlife and Fisheries hereby determines that those species designated as



endangered or threatened pursuant to the Federal Endangered Species Act (ESA) of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.), are designated as such by the U.S. Fish and Wildlife Service at 50 CFR 17.11. Based upon the above determination, said species, which are enumerated below, are deemed to be endangered or threatened species under the provisions of *Louisiana Revised Statutes* title 56, chapter 8, part IV.

<b>1. Invertebrates</b>		
Pink Mucket	<i>Lampsilis abrupta</i>	E
Louisiana Pearlshell	<i>Margaritifera hembeli</i>	T
Fat Pocketbook	<i>Potamilus capax</i>	E
Inflated Heelsplitter	<i>Potamilus inflatus</i>	T
Rabbitsfoot	<i>Quadrula cylindrica</i>	T
<b>2. Fish</b>		
Gulf Sturgeon	<i>Acipenser oxyrinchus desotoi</i>	T
Pallid Sturgeon	<i>Scaphirhynchus albus</i>	E
Smalltooth Sawfish	<i>Pristis pectinata</i>	E
<b>3. Amphibians</b>		
Dusky Gopher Frog	<i>Lithobates sevosus</i>	E
<b>4. Reptiles (including eggs)</b>		
Loggerhead Sea Turtle	<i>Caretta caretta</i>	T
Green Sea Turtle	<i>Chelonia mydas</i>	T
Hawksbill Sea Turtle	<i>Eretmochelys imbricata</i>	E
Kemp's Ridley Sea Turtle	<i>Lepidochelys kempii</i>	E
Leatherback Sea Turtle	<i>Dermochelys coriacea</i>	E
Ringed Map Turtle	<i>Graptemys oculifera</i>	T
Gopher Tortoise	<i>Gopherus polyphemus</i>	T
Black Pinesnake	<i>Pituophis melanoleucus lodingi</i>	T
Louisiana Pinesnake	<i>Pituophis ruthveni</i>	T
<b>5. Birds (including eggs)</b>		
Whooping Crane	<i>Grus americana</i>	E
Piping Plover	<i>Charadrius melodus</i>	T
Red Knot	<i>Calidris canutus rufa</i>	T
Interior Least Tern	<i>Sternula antillarum athalassos</i>	E
Red-cockaded Woodpecker	<i>Picoides borealis</i>	E
<b>6. Mammals</b>		
West Indian Manatee	<i>Trichechus manatus</i>	T
Northern Long-eared Bat	<i>Myotis septentrionalis</i>	T
Sperm Whale	<i>Physeter macrocephalus</i>	E
Florida Panther	<i>Felis concolor coryi</i>	E
<b>7. Plants</b>		
American Chaffseed	<i>Schwalbea americana</i>	E
Earth-fruit	<i>Geocarpon minimum</i>	T
Louisiana Quillwort	<i>Isoetes louisianensis</i>	E
Pondberry	<i>Lindera melissifolia</i>	E
E = Endangered; T = Threatened		

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 56:1904.

**HISTORICAL NOTE:** Promulgated by the Department of Wildlife and Fisheries, Office of Wildlife, LR 15:1099 (December 1989), amended LR 18:877 (August 1992), LR 37:2438 (August 2011), LR 44:798 (April 2018), LR 45:

#### Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

#### Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S.49:973.

#### Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

#### Public Comments

Written comments may be addressed to Amity Bass, Biologist Director, Coastal and Nongame Resources Division, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898, or abass@wlf.la.gov no later than 4:30 p.m., Thursday, December 5, 2019.

Jack Montoucet  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Threatened and Endangered Species

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no direct, material anticipated implementation costs or savings to the Department of Wildlife & Fisheries (LDWF) or to state or local government units as a result of the proposed rule change to add the Louisiana Pinesnake (*Pituophis ruthveni*) to the State of Louisiana's list of threatened and endangered species. The proposed rule change aligns the Louisiana Threatened and Endangered Species list with the Federal Endangered Species Act, to which the Louisiana Pinesnake was added in May of 2018.

Investigative and enforcement costs are not anticipated to increase the budget for those activities stemming from the addition of this snake to the Louisiana Threatened and Endangered Species List.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The potential increase in revenue to LDWF, is not anticipated to be material. Any increase in revenue will be a result of fines and fees levied against those persons engaged in the illegal taking of these animals. Currently the Department of Wildlife and Fisheries does not have data available to create an accurate yearly revenue projection from fines and fees associated with illegal activity linked to the Louisiana Pinesnake.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

To the extent that individuals are engaged in unlawful activity related to the endangered or threatened species, these individuals have been, and will continue to be impacted. LDWF will consider this a Class Six Violation, which has the potential to carry a penalty of fines no less than \$900, but no more than \$950, imprisonment, or both.

In addition to the aforementioned fines, persons engaged in the illegal taking of the Louisiana Pinesnake are liable for a civil restitution assessment of \$4,351.49; this is the civil restitution value for a federally listed threatened or endangered adult reptile.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have no effect on competition and employment.

Bryan McClinton  
Undersecretary  
1910#053

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Workforce Commission Office of the Secretary

#### Interested Party Petitions (LAC 40:XIX.301)

Under the authority of and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., specifically R.S. 49:953(C)(1), and through the authority granted in R.S. 36:304, notice is hereby given that the Workforce Commission proposes to adopt LAC 40:XIX.301. The proposed Rule sets forth the procedure that interested parties shall follow when petitioning the Louisiana Workforce Commission to promulgate, amend, or repeal any rule.

#### Title 40

#### LABOR AND EMPLOYMENT

#### Part XIX. Louisiana Workforce Commission

#### Chapter 3. General Rules

#### §301. Interested Party Petitions

A. Any interested person may petition the secretary of the Workforce Commission requesting the adoption, amendment, or repeal of a rule.

B. A petition for adoption, amendment, or repeal of a rule shall be styled as such and shall include:

1. the petitioner's name, mailing address, email address, and original signature;
2. the specific text or a description of the proposed language desired for amendment or adoption of a rule, or the specific rule and language identified for repeal; and
3. justification for the proposed action with a description of the intended effect.

C. The secretary of the Workforce Commission may deny any petition for adoption, amendment, or repeal of a rule that does not conform to the requirements of this Section.

D. After submission of a petition pursuant to this section, within 90 days of receipt, the secretary of the Workforce Commission either shall deny the petition in writing stating the reasons for denial, or shall initiate rulemaking proceedings in accordance with the Louisiana Administrative Procedure Act. The secretary retains sole discretion to grant or deny a petition.

E. Nothing herein shall be construed to require that the secretary of the Workforce Commission, in granting a petition for adoption, amendment, or repeal of a rule, adopt or employ the specific form or language requested by the petitioner, provided that the Workforce Commission's actions give effect to the substance and intent of the petition.

F. The rulemaking petition shall be submitted by certified mail and addressed to:

Office of the Secretary, Louisiana Workforce Commission  
Re: Rulemaking Petition  
P.O. Box 94094  
Baton Rouge, LA 70804-9094

AUTHORITY NOTE: Promulgated in accordance with RS 36:304 and 49:953 et seq.

HISTORICAL NOTE: Promulgated by Workforce Commission, Office of the Secretary, LR 45:

#### Family Impact Statement

Implementation of this Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on the six criteria set forth in R.S. 49:972(B).

#### Poverty Impact Statement

This Rule will have no known impact on poverty as described in R.S. 49:973.

#### Small Business Analysis

This Rule's impact on small businesses has been considered in accordance with R.S. 49:965.6, and it is estimated that the Rule will have negligible impact on small businesses as defined in the Regulatory Flexibility Act.

#### Provider Impact Statement

This Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session.

#### Public Comments

All interested persons are invited to submit written comments via U.S. Mail to Robert Roux, Executive Counsel, P.O. Box 94094, Baton Rouge, LA 70804-9094. Written comments may also be hand-delivered to Robert Roux, Executive Counsel, at 1001 N. 23rd Street, Baton Rouge, LA 70802. All written comments are required to be signed by the person submitting the comments, dated, and received on or before 4:30 p.m. on November 9, 2019.

Ava M. Dejoie  
Secretary

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Interested Party Petitions

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no expected implementation costs or savings to state or local governmental units as a result of this proposed Rule.

In compliance with R.S. 49:953(C)(1), the proposed Rule codifies procedures for an interested person to petition the Workforce Commission to request the adoption, amendment, or repeal of a rule. The Rule sets forth the necessary information that must be contained in a petition, how the petition should be submitted, and explains how the Workforce Commission will address such petitions.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed changes will have no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule is not anticipated to create costs or economic benefits for directly affected persons or nongovernmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule has no known effect on competition and employment.

Ava DeJoie  
Secretary  
1910#043

Evan Brasseaux  
Staff Director  
Legislative

# Potpourri

## POTPOURRI

### Department of Economic Development Office of Business Development

#### Notice of Public Hearing

In compliance with Act 454 of the 2018 Regular Session of the Louisiana Legislature, codified as R.S. 49:953(C)(2), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development will hold a public hearing for the purpose of receiving comments on any rule of the agency on Tuesday, November 26, 2019 at 9 a.m. in the Griffon Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

At the public hearing, all interested persons will be afforded an opportunity to submit comments either orally or in writing, regarding those rules the person believes are contrary to law, outdated, unnecessary, overly complex, or burdensome.

Written comments may be submitted to Stephanie Le Grange via email at: Stephanie.Legrange@la.gov or via certified mail to Legal Department - Stephanie Le Grange, Louisiana Economic Development, 617 North Third Street, 11<sup>th</sup> Floor, Baton Rouge, LA 70802. All written comments must include the name, contact information and signature of the person submitting the comments and must be received no later than 5 p.m. Wednesday, November 26, 2019. The Department of Economic Development will consider fully all written and oral comments. However, only written comments received by the agency will be included in the department's report to the legislative oversight committees.

The hearing site is accessible to persons using wheelchairs or other mobility aids via the LaSalle Street entrance. If other reasonable accommodations are required in order to participate in the hearings, please contact Deborah Simmons at (225) 342-5398 at least five business days prior to the scheduled hearing.

Anne G. Villa  
Undersecretary

1910#047

## POTPOURRI

### Board of Elementary and Secondary Education

#### Notice of Public Hearing

Pursuant to Act No. 454 of the 2018 Regular Session of the Louisiana Legislature, codified as R.S. 49:953(C)(2), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Elementary and Secondary Education (BESE) hereby gives notice that a public hearing will be held on December 10, 2019, at 9 a.m. in the Claiborne Building, Room 1-100 (The Louisiana

Purchase Room), 1201 North Third Street, Baton Rouge, LA 70802, for the purpose of receiving comments from any interested person regarding any BESE rule contained in the *Louisiana Administrative Code*, Title 28, that may be contrary to law, outdated, unnecessary, overly complex, or burdensome.

Interested persons are invited to attend and submit oral or written comments. BESE will consider all written and oral comments; however, only written comments received by BESE will be included in the report, submitted to the Louisiana legislative oversight committees. Written comments must be hand-delivered or mailed to the BESE office. Hand-delivered comments must be date-stamped by BESE office staff on the date received. Comments sent via U.S. Mail must be dated and must include the original signature of the person submitting the comments. If mailing, please send to: Mrs. Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804. For hand-delivered comments, the BESE office is located at: 1201 North Third Street, Baton Rouge, LA in the Claiborne Building, Suite 5-190. All comments must be received no later than 4 p.m. on December 10, 2019.

To request reasonable accommodations for persons with disabilities, please call the board office at (225) 342-5840, no later than 4 p.m. on December 2, 2019.

Shan N. Davis  
Executive Director

1910#039

## POTPOURRI

### Office of the Governor Board of Architectural Examiners

#### Notice of Public Hearing

The Louisiana State Board of Architectural Examiners (LSBAE) hereby gives notice of a public hearing pursuant to R.S. 49:953(C)(2)(a) (Act 454 of the 2018 Regular Legislative Session) for the purpose of allowing any interested person the opportunity to comment on any rule of the department, included in LAC Title 46:I, Professional and Occupational Standards: Architects, which the person believes is contrary to law, outdated, unnecessary, overly complex, or burdensome. The hearing will take place on Friday, December 13, 2019, at 10 a.m. at the Board office, 9625 Fenway Avenue, Suite B, Baton Rouge, LA. Individuals with disabilities who require special services should contact the office at least seven working days in advance of the hearing. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Oral comments will be considered, but in order to be submitted to the legislative oversight committees, the comments must be in writing. Written comments may be submitted to LSBAE at 9625

Fenway Avenue, Suite B, Baton Rouge, LA 70809. The deadline for submitting written comments is December 13, 2019.

Katherine E. Hillegas  
Executive Director

1910#076

## POTPOURRI

### Office of the Governor Coastal Protection and Restoration Authority

Notice of Availability of the Deepwater Horizon Oil Spill Louisiana Trustee Implementation Group Draft Restoration Plan #1.2 and Environmental Assessment: Barataria Basin Ridge and Marsh Creation Project Spanish Pass Increment and Lake Borgne Marsh Creation Project Increment One

#### Action:

Notice of Availability

#### Summary:

In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act of 1969 (NEPA), the Final Programmatic Damage Assessment Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS), and the Consent Decree, the Federal and State natural resource trustee agencies for the Louisiana Trustee Implementation Group (LA TIG) have prepared the *Louisiana Trustee Implementation Group Draft Restoration Plan/Environmental Assessment #1.2: Barataria Basin Ridge and Marsh Creation Project Spanish Pass Increment and Lake Borgne Marsh Creation Project Increment One* (Phase 2 RP/EA #1.2), proposing construction activities for the restoration of wetlands, coastal, and nearshore habitats injured as a result of the Deepwater Horizon (DWH) oil spill. The two projects were approved for engineering and design (E&D) in a 2017 restoration plan entitled *Louisiana Trustee Implementation Group Final Restoration Plan #1: Restoration of Wetlands, Coastal, and Nearshore Habitats; Habitat Projects on Federally Managed Lands; and Birds* (Phase 1 RP #1). The Phase 2 RP/EA #1.2 analyzes design alternatives for the two projects and proposes a preferred design alternative for construction of each. We invite comments on the draft Phase 2 RP/EA #1.2.

#### Dates:

Submitting Comments: We will consider public comments on the draft Phase 2 RP/EA #1.2 received on or before November 18, 2019.

#### Public Webinar:

The LA TIG will host a public webinar on October 28, 2019, at 4:00 p.m. CST. The public may register for the webinar at <https://attendee.gotowebinar.com/register/4633351197181038605>.

After registering, participants will receive a confirmation email with instructions for joining the webinar. The presentation will be posted on the web shortly after the webinar is conducted.

#### Obtaining Documents:

You may download the draft Phase 2 RP/EA #1.2 from either of the following websites:

1. <https://www.la-dwh.com>
2. <https://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana>

Alternatively, you may request a CD of the draft Phase 2 RP/EA #1.2 (see For Further Information, Contact). A hard copy of the Phase 2 RP/EA #1.2 is also available for review during the public comment period at 16 repositories located across the State.

#### Submitting Comments:

You may submit comments on the draft Phase 2 RP/EA #1.2 by one of the following methods:

1. Via the Web: <http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana>
2. Via U.S. Mail: U.S. Fish and Wildlife Service, P.O. Box 29649, Atlanta, GA 30345. To be considered, mailed comments must be postmarked on or before the comment deadline.

3. During the public webinar: Written comments may be provided by the public during the webinar.

#### For Further Information:

Contact Joann Hicks, CPRA, 225-342-5477

#### Administrative Record:

The documents comprising the Administrative Record for the Phase 2 RP/EA #1.2 can be viewed electronically at <https://www.doi.gov/deepwaterhorizon/adminrecord>.

#### Authority:

The authority for this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*), its implementing NRDA regulations found at 15 CFR Part 990, the Louisiana Oil Spill Prevention and Response Act (R.S. 30:2451 *et seq.*), the implementing Natural Resource Damage Assessment Regulations found at *Louisiana Administrative Code* 43:101 *et seq.*, and NEPA (42 U.S.C. 4321 *et seq.*).

Lawrence B. Haase  
Executive Director

1910#022

## POTPOURRI

### Office of the Governor Division of Administration

#### Notice of Public Hearings

In accordance with Act No. 454 of the 2018 Regular Session of the Louisiana Legislature, codified as La. R.S. 49:953(C)(2), and the Administrative Procedure Act, La. R.S. 49:950, *et seq.*, the Division of Administration, and its offices specifically named below, will hold hearings at the Thomas Jefferson Room, 1-136C, first floor of the Claiborne Building, 1201 N. Third Street, Baton Rouge, Louisiana pursuant to the following schedule.

Date	Office	Rules Subject to Review
December 3, 2019 10:00 a.m.	Office of State Register	LAC 1:L. §§101-505

Date	Office	Rules Subject to Review
December 3, 2019 11:00 a.m.	Office of the Commissioner	LAC 4:I.§301 LAC 4:I.§§501-713 LAC 19:VIII.§§1101-1321 LAC 34:I.§§5101-5324 LAC 34:V.§2901
December 3, 2019 1:00 p.m.	Office of State Uniform Payroll	LAC 4:III.§§101-1124
December 3, 2019 2:00 p.m.	Office of Facility Planning and Control	LAC 4:VII.§§101-535 LAC 34:III.§§101-901
December 3, 2019 3:00 p.m.	Office of Community Development	LAC 4:VII.§§2301-2407
December 3, 2019 4:00 p.m.	Office of Technology Services	LAC 4:IX.§§101-2101 LAC 4:XV.§§101-701 LAC 34:I.§§5501-5525
December 4, 2019 10:00 a.m.	Office of Statewide Reporting and Accounting Policy	LAC 4:XIII.§§101-111
December 4, 2019 11:00 a.m.	Office of State Procurement	LAC 19:IX.§§1101-1321 LAC 34:V.§§101-3301
December 4, 2019 1:00 p.m.	Office of Group Benefits	LAC 32:I.§§101-1515 LAC 32:III.§§101-109 LAC 32:V.§§101-507
December 4, 2019 2:00 p.m.	Louisiana Property Assistance Agency	LAC 34:VII.§§101-901 LAC 34:IX.§§101-3101 LAC 34:XI.§§101-105
December 4, 2019 3:00 p.m.	Office of Risk Management	LAC 37:I.§§101-901 LAC 37:I.§2501
December 4, 2019 4:00 p.m.	Office of State Lands	LAC 43:XXVII.§§101-3501

These hearings provide an opportunity to receive public comments as to whether any of these rules are contrary to law, outdated, unnecessary, overly complex, or burdensome. All interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing regarding these rules only. Each agency will consider fully all written and oral comments.

Comments must be received in writing in order to be submitted to the legislative oversight committees. Written comments may be submitted at the hearings or to Scott Johnson, General Counsel, Division of Administration, P.O. Box 94095, Baton Rouge, Louisiana 70804. Comments must be postmarked no later than Friday, December 13, 2019.

The hearings site is accessible to people using wheelchairs or other mobility aids. If other reasonable accommodations are required in order to participate in the hearings, please contact the Office of General Counsel at (225) 342-7154 at least 10 business days prior to the scheduled hearings.

Jay Dardenne  
Commissioner

1910#060

## POTPOURRI

### Office of the Governor Division of Administration Patient's Compensation Fund Oversight Board

#### Notice of Public Hearing

In compliance with the Administrative Procedure Act, more specifically R.S. 49:953(C)(2), enacted by Act 454 of the 2018 Regular Legislative Session, the Louisiana Patient's Compensation Fund Oversight Board, through its executive director, Ken Schnauder, hereby gives notice of a

public hearing to receive comments and testimony concerning the entirety of its rules as to whether any of them may be contrary to law, outdated, unnecessary, overly complex, or burdensome.

A public hearing on these rules is scheduled for Tuesday, November 26, 2019, at 1:30 p.m., at the office located at Roedel Parsons, Third Floor Boardroom, 8440 Jefferson Highway, Suite 301, Baton Rouge, LA 70809. Interested persons are invited to attend, and/or submit oral or written comments at the hearing. Additionally, all interested persons are invited to submit written comments in advance of the hearing to Roedel Parsons, Attn: David A. Woolridge, Jr., Esq., 8440 Jefferson Highway, Baton Rouge, Louisiana 70809. All written comments must include the name and contact information of the person submitting the comments, and must be received no later than the start of the hearing on November 26, 2019 if the person submitting is not in attendance.

The Louisiana Patient's Compensation Fund Oversight Board will consider all oral and written comments received from those in attendance at the hearing, as well as those written comments submitted in advance which are timely received. Oral comments must be submitted to the Louisiana Patient's Compensation Fund Oversight Board in writing as outlined above in order to be submitted to the legislative oversight committees. Additionally, any individual that needs special assistance in order to attend or speak at this public hearing should notify David A. Woolridge, Jr., Esq. in writing at Roedel Parsons, Attn: David A. Woolridge, Jr., Esq., 8440 Jefferson Highway, Baton Rouge, Louisiana 70809 or by email at [DWoolridge@RoedelParsons.com](mailto:DWoolridge@RoedelParsons.com), or by telephone at 225-929-7033. Request for special assistance must be received no later than 4:30 p.m. on Monday, November 25, 2019. Any questions should be directed to David A. Woolridge, Jr. at 225-929-7033.

Ken Schnauder  
Executive Director

1910#008

## POTPOURRI

### Office of the Governor Real Estate Appraisers Board

#### Notice of Public Hearing

Pursuant to Act No. 454 of the 2018 Regular Session of the Louisiana Legislature, codified as R.S. 49:953(C)(2), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Real Estate Appraisers Board (the "board") hereby gives notice that a public hearing will be held on Tuesday, November 19, 2019 at 9 a.m. at the board's office, 9071 Interline Avenue, Baton Rouge, LA 70809, for the purpose of receiving comments on any rule of the Board which any interested person believes is contrary to law, outdated, unnecessary, overly complex, or burdensome.

Interested persons are invited to attend and submit oral or written data, views, or arguments either orally or in writing. The board will consider all written and oral comments.

However, only written comments received by the agency will be included in the Board's report to the legislative oversight committees. Written comments may be submitted via United States Postal Service or other mail carrier, or by personal delivery, to Thomas E. Devillier, Regulatory Compliance Director, Louisiana Real Estate Appraisers Board, 9071 Interline Avenue, Baton Rouge, LA 70809. All written comments must include the name, contact information, and signature of the person submitting the comments and must be received no later than noon on Tuesday, November 12, 2019. To request reasonable accommodations for persons with disabilities, please call Summer S. Mire, Deputy Director, (225) 925-1923.

Bruce Unangst  
Executive Director

1910#032

### **POTPOURRI**

#### **Office of the Governor Real Estate Commission**

##### **Notice of Public Hearing**

Pursuant to Act No. 454 of the 2018 Regular Session of the Louisiana Legislature, codified as R.S. 49:953(C)(2), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Real Estate Commission (the "commission") hereby gives notice that a public hearing will be held on Thursday, November 21, 2019 at 9 a.m. at the commission's office, 9071 Interline Avenue, Baton Rouge, LA 70809, for the purpose of receiving comments on any rule of the commission which any interested person believes is contrary to law, outdated, unnecessary, overly complex, or burdensome.

Interested persons are invited to attend and submit oral or written data, views, or arguments either orally or in writing. The commission will consider all written and oral comments. However, only written comments received by the agency will be included in the commission's report to the legislative oversight committees. Written comments may be submitted via United States Postal Service or other mail carrier, or by personal delivery, to Thomas E. Devillier, Regulatory Compliance Director, Louisiana Real Estate Commission, 9071 Interline Avenue, Baton Rouge, LA 70809. All written comments must include the name, contact information, and signature of the person submitting the comments and must be received no later than noon on Thursday, November 14, 2019. To request reasonable accommodations for persons with disabilities, please call Summer S. Mire, Deputy Director, (225) 925-1923.

Bruce Unangst  
Executive Director

1910#031

### **POTPOURRI**

#### **Department of Health Board of Examiners of Nursing Facility Administrators**

##### **Notice of Public Hearing**

Pursuant to Act No. 454 of the 2018 Regular Session of the Louisiana Legislature, codified as R.S. 49:953(C)(2), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Nursing Facility Administrators (the "Board") hereby gives notice that a public hearing will be held on November 6, 2019 at 1 p.m. at the board's office, 5647 Superior Drive, Baton Rouge, LA 70816, for the purpose of receiving comments on any rule of the board which any interested person believes is contrary to law, outdated, unnecessary, overly complex, or burdensome.

Interested persons are invited to attend and submit oral or written data, views, or arguments either orally or in writing. The board will consider all written and oral comments. However, only written comments received by the agency will be included in the board's report to the legislative oversight committees. Written comments may be submitted, via United States Postal Service or other mail carrier, or by personal delivery, to Mark A. Hebert, Executive Director, Louisiana Board of Examiners of Nursing Facility Administrators, 5647 Superior Drive, Baton Rouge, LA 70816. All written comments must include the name, contact information, and signature of the person submitting the comments and must be received no later than noon on Tuesday, November 5, 2019.

To request reasonable accommodations for persons with disabilities, please call (225) 295-8571 no later than noon on Tuesday, November 5, 2019. Any questions should be directed to Mark A. Hebert at (225) 295-8571.

Mark A. Hebert  
Executive Director

1910#034

### **POTPOURRI**

#### **Department of Insurance Office of the Commissioner**

##### **Notice of Public Hearing**

Pursuant to the authority of Act. No. 454 of the 2018 Regular Session of the Louisiana Legislature, codified as La. R.S. 49:953(C)(2), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et. seq., the Department of Insurance gives notice that a public hearing will be held for the purpose of receiving comments from all interested persons regarding any rule or regulation of the Department of Insurance which the person believes is contrary to law, outdated, unnecessary, overly complex, or burdensome.

The hearing will take place on November 20, 2019, at 10 am at the office of the Department of Insurance, Poydras Building, 1702 North 3<sup>rd</sup> Street, Baton Rouge, LA, 70802. Interested persons are invited to attend the hearing and submit data, views, or arguments either orally or in writing. Oral comments submitted at the hearing will be required to be put in writing by the end of the hearing in order to be submitted to the legislative oversight committees. All written comments must be dated, include the original signature of the person submitting the comments, and must be received no later than November 19, 2019. The hearing site is accessible to people using wheelchairs or other mobility aids. If other reasonable accommodations are required in order to participate in the hearing, please contact Claire Lemoine at (225) 342-4673 at least ten business days prior to the scheduled hearing.

The agency will consider fully all written and oral comments. Only comments received in writing will be submitted to the legislative oversight committees. Written comments should be addressed to Claire Lemoine, Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214. If comments are to be shipped or hand-delivered, please deliver to Poydras Building, 1702 North 3<sup>rd</sup> Street, Baton Rouge, LA 70802.

James J. Donelon  
Commissioner

1910#001

### POTPOURRI

#### Department of Natural Resources Office of Conservation

##### Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, La. R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
M.L. Priestley & B.P. Holmes	Monroe	M	Perry	003	1859
R.O.C. Oil And Gas, Inc.	Gahagan	S	Hoss Vub;Hook	002	167023
R.O.C. Oil And Gas, Inc.	Gahagan	S	Hoss Vua;Ohrt	001	172528
R.O.C. Oil And Gas, Inc.	Gahagan	S	Ugr ra Sui;Hook	001	219948

Operator	Field	District	Well Name	Well Number	Serial Number
R.O.C. Oil And Gas, Inc.	Red River-Bull Bayou	S	Lodestro	001	232484
R.O.C. Oil And Gas, Inc.	Gahagan	S	Hook	004	236615
Sandhill Production Inc	Thornwell, South	L	G A Lyon	001	213688

Richard P. Ieyoub  
Commissioner

1910#045

### POTPOURRI

#### Department of Public Safety and Corrections Office of State Police Public Safety Services

##### Notice of Public Hearing

In compliance with Act No. 454 of the 2018 Regular Session of the Louisiana Legislature, codified as R.S. 49:953(C)(2), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety & Corrections, Public Safety Services, will hold a public hearing on December 11, 2019 at 9:00 a.m. in the Louisiana State Police Training Academy, Classroom 5, located at 7901 Independence Boulevard, Baton Rouge, LA 70806, to receive public comments from any interested person regarding the rules promulgated by the following agencies: Louisiana State Police, Office of State Fire Marshal, LP Gas Commission, Louisiana Oil Spill Coordinator's Office (LOSCO), the Office of Management and Finance and the Office of Motor Vehicles.

At the public hearing, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing, regarding these rules only. The department will consider fully all written and oral comments. Comments must be received in writing in order to be submitted to the legislative oversight committees.

The hearing site is accessible to people using wheelchairs or other mobility aids. If other reasonable accommodations are required in order to participate in the hearings, please contact Lt. Jason Shavers at (225) 925-4239 at least five business days prior to the scheduled hearing.

Written comments may be submitted in advance of the hearing to Lt. Jason Shavers, Louisiana State Police, 7919 Independence Boulevard, Box A-24, Baton Rouge, LA 70806. Comments must be postmarked no later than Wednesday, December 11, 2019.

Lt. Colonel Jason Starnes  
Deputy Superintendent/  
Chief Administrative Officer

1910#062

## POTPOURRI

### Department of Treasury Board of Trustees of the Teachers' Retirement System

#### Notice of Public Hearing

The Teachers' Retirement System of Louisiana (TRSL) hereby gives notice of a public hearing pursuant to R.S. 49:953(C)(2)(a) (Act 454 of the 2018 Regular Legislative Session) for the purpose of allowing any interested person the opportunity to comment on any rule of the system, included in LAC Title 58, Retirement, Part III, which the person believes is contrary to law, outdated, unnecessary, overly complex, or burdensome.

The hearing will take place at 10 a.m., Monday, December 9, 2019 at the Teachers' Retirement System of Louisiana, 8401 United Plaza Boulevard, 4th Floor Boardroom, Baton Rouge, LA.

At the hearing, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing, regarding these rules only. TRSL will consider fully all written and oral comments. However, comments must be received in writing in order to be submitted to the legislative oversight committees. Written comments may be submitted in advance of the hearing in compliance with *Louisiana Admin Code*, Title 58, Part III, § 103 to Director, P.O. Box 94123, Baton Rouge, LA 70804-9123. All written comments must be postmarked no later than Wednesday, November 20, 2019 and:

- a. clearly state that it is a petition for adoption, amendment or repeal of a rule;
- b. state the name, address, telephone number, and e-mail address of its author;
- c. be signed and dated by its author;
- d. contain a brief description stating:
  - i. whether the petition is requesting the adoption, amendment or repeal of a rule;
  - ii. the need for the adoption, amendment or repeal of the proposed rule;
  - iii. the specific citation of any legal authority purporting to authorize the adoption, amendment or repeal of the proposed rule, if known; and
  - iv. the fiscal impact of the adoption, amendment or repeal of the proposed rule, if known.
- e. state the reasons or grounds for the proposed adoption, amendment or repeal;
- f. contain proposed wording, content or description of the suggested language of a newly proposed rule and/or the suggested language of a proposed amendment to an existing rule;
- g. a petition for the repeal of an existing rule shall cite the rule to be repealed. The interested person may attach a copy of the rule with a strike through of all portions proposed to be repealed.
- h. contain specific citation to any statute that specifically relates to the content of the requested rule change, if known; and
- i. include any data, views or arguments in support of the rule's adoption, amendment, or repeal.

Forms for written submissions can be found at [https://fluxconsole.com/files/item/202/49900/PARC\\_final.pdf](https://fluxconsole.com/files/item/202/49900/PARC_final.pdf). To request reasonable accommodations for persons with disabilities, please contact Debbie Boudreaux at 225-925-6530 or [debbie.boudreaux@trsl.org](mailto:debbie.boudreaux@trsl.org), at least 10 business days prior to the scheduled hearing.

Dana L. Vicknair  
Director

1910#025

## POTPOURRI

### Workforce Commission Office of the Secretary

#### Notice of Public Hearing

Under the authority of Act 454 of the 2018 Regular Session of the Louisiana Legislature, codified as R.S. 49:953(C)(2), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Workforce Commission "LWC", gives notice that a public hearing will be held at the Louisiana Workforce Commission, 4th Floor Conference Room #494, Administration Bldg., 1001 N. 23rd Street, Baton Rouge, Louisiana, at 9 a.m. on December 20, 2019, for the purpose of receiving comments from all interested persons regarding any Rule of LWC which the person believes is contrary to law, outdated, unnecessary, overly complex, or burdensome. Interested persons are invited to attend the hearing and submit oral comments or submit their written comments at the hearing.

Additionally, all interested persons are invited to submit written comments via the U.S. Mail to Robert Roux, Executive Counsel, Louisiana Workforce Commission, P.O. Box 94094, Baton Rouge, LA 70804-9094. Written comments may also be hand-delivered to Robert Roux, Executive Counsel, 1001 N. 23rd Street, Baton Rouge, LA 70802, and must be date stamped by LWC on the date received. All written public comments must be dated and include the original signature of the person submitting the comments and must be received in an envelope labeled "ACT 454 Comments" no later than 4 p.m. on December 20, 2019. LWC will only consider and review those written comments received at the public hearing or those written comments transmitted and timely received via U.S. Mail or hand delivery during the public comment period. LWC will consider all relevant oral comments received at the public hearing. In order for oral comments to be submitted to the legislative oversight committees, the comments must be submitted in writing as outlined above. Any questions should be directed to Robert Roux, Executive Counsel, at (225) 342-1690.

Any individual who needs special assistance in order to attend or speak at this public hearing should notify Melissa Bayham, Rehabilitation Services Director, at least ten business days prior to the Hearing Date, in writing, at Louisiana Workforce Commission, ATTN: Melissa Bayham, P.O. Box 94094, Baton Rouge, LA 70804-9094, by email at



MBayham@lwc.la.gov or by telephone at (225) 219-2294. The hearing site is accessible to people using wheelchairs or other mobility aids.

Ava M. Dejoie  
Secretary

1910#044

**POTPOURRI**

**Workforce Commission  
Office of Workers' Compensation Administration**

**Pain Guidelines—Public Hearing**

The Louisiana Workforce Commission (LWC) will hold a hearing to receive public comment from any interested person regarding the Notice of Intent published on September 20, 2019.

Date	Time	Location	Rules Subject to Review
Wednesday, October 30, 2019	9 am	LWC Headquarters 1001 North 23 <sup>rd</sup> Street Baton Rouge, LA 70802 4 <sup>th</sup> Floor Administrative Building	LAC 40:I.Chapter 21 Pain Medical Treatment Guidelines

At the public hearing, all interested persons will be afforded an opportunity to submit data, views, or arguments orally regarding these rules only. The agency will consider fully all written and oral comments.

The hearing site is accessible to people using wheelchairs or other mobility aids. Parking is available on-site.

Sheral Kellar  
Assistant Secretary

1910#059

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